

**Meeting Agenda**

December 13, 2021

- I. Call to Order.
- II. Attendance.
- III. Adoption of the Agenda.
- IV. Approval of Meeting Minutes from November 15, 2021.
- V. Announcements.
  - 1. Dean Bresciani, President
  - 2. Margaret Fitzgerald, Provost
  - 3. Florin Salajan, Faculty Senate President
  - 4. Dennis Cooley, Faculty Senate Past-President
  - 5. Anastassiya Andrianova, Faculty Senate President-Elect
  - 6. Joshua Schroetter, Staff Senate President
  - 7. Laura Friedmann, Student Body Vice-President
  - 8. Philip Hunt, Registrar
- VI. Committee and Other Reports.
  - 1. Budget Committee report
- VII. Consent Agenda.
  - 1. UCC Report
  - 2. Policy 350.2
  - 3. Policy 350.5
  - 4. Policy 353
- VIII. Unfinished Business.
- IX. New Business.
  - 1. Policy 311
  - 2. Policy 350.3
  - 3. Policy 350.4
  - 4. Proposal to create a working group on mode of instruction recommendations
- X. Adjournment.

**Meeting Minutes**

November 15, 2021

- I. Call to Order: 3:04pm
- II. Attendance: See Appendix 1.
- III. Adoption of the Agenda.
  1. Motion to adopt: Roberts/Smith, M.
  2. Motion to amend the agenda to change the bylaws on the agenda:  
Selekwa
    - i. Ruled out of order by President Salajan.
  3. Approved unanimously
- IV. Approval of Meeting Minutes from October 11, 2021.
  1. Approved unanimously
- V. Announcements.
  1. Dean Bresciani, President
    - i. Absent, on university business
  2. Margaret Fitzgerald, Provost
    - i. Federal vaccine mandate update. NDSU will be implementing Phase I by contacting federally paid employees, and then having all of them vaccinated or excused when appropriate. Phase II will be implemented when information and resources make it appropriate.
    - ii. Faculty Senate Budget Committee made recommendations on faculty to serve on the committees for budget reductions and other efficiencies. The Provost will be acting on them soon.
  3. Florin Salajan, Faculty Senate President
    - i. SB 2030 update. At the moment we are still a bit in the dark about what it entails for faculty and others, even with the Attorney General's opinion. Working with administration to figure out the best way forward on this. The NDUS counsel is working on guidance on how NDUS employees can be compliant. It is unclear to what extent academic freedom is being limited or impinged.

4. Dennis Cooley, Faculty Senate Past-President
  - i. No announcements
5. Anastassiya Andrianova, Faculty Senate President-Elect
  - i. Echoed President Salajan's direction to remain vigilant in regard to SB 2030.
  - ii. Mentioned HB 1508, the anti-CRT bill, that has become state law and the possibility of it being extended to higher education. If so, it would adversely affect academic freedom. In a private capacity only, faculty can contact their representatives or other faculty to convey their concern on HB 1508 and SB 2030.
6. Joshua Schroetter, Staff Senate President
  - i. They are looking forward to collaboration on shared government committee. They have a member on Faculty Senate committee as well as having their own committee on the subject.
  - ii. They are putting together a Day of Honor. There will be forms sent out to faculty soon. They would love to have faculty on the planning committee.
    - a. Please let Presidents Salajan or Schroetter know if you are willing to serve.
7. Laura Friedmann, Student Body Vice-President
  - i. Carl Ludewig substituted for L. Friedmann.
  - ii. Stated that Student Government is continuing to back academic freedom and support faculty at the university and thanked the Faculty Senate for their work on SB 2030.
  - iii. Student Government passed a resolution to cancel classes during career fairs. It will be sent to Faculty Senate to examine.
  - iv. Student Government has appointed student representative on Faculty Senate shared governance committee.
8. Philip Hunt, Registrar
  - i. All members of the campus community should have received invitations to NDSU's Fall Commencement.
  - ii. Faculty are at 93% completion rate for FERPA training. Need to get to 100%.
  - iii. Registration is open.
  - iv. Question: Do we know how many students have registered so far? There are low enrollments in some classes.
    - a. Administrative assistants can find that information for faculty.
9. Alicia Laferriere, NDSU Bookstore

- i. Presented a PowerPoint of Fall information.
- ii. There has been a large increase in Inclusive Access use by faculty.
- iii. If faculty have not submitted book requests for classes, then there will be individualized emails coming out as a reminder.
- iv. The faculty survey is still out.
- v. If you have any questions or have any needs, then please contact her for help.
- vi. President Salajan shared slides with the Senators over email.

## VI. Committee and Other Reports.

### 1. Budget Committee report

- i. Polled colleges for names of potential members to serve on the various ad hoc committees/workgroups that President Bresciani created to investigate ways to better budget and invest university monies. Some colleges had very few volunteers; so, they were pressed to nominate qualified faculty members. The Budget Committee made recommendations to the Provost. Within next week or so, the committees will be fully staffed and working.
- ii. The class sizes committee has a draft report that the Faculty Senate Budget Committee will review. There is a forum on Friday - 19 November 2021 - for public comment.
- iii. Budget Committee is meeting for a second time with President Bresciani to discuss ideas on what NDSU should do going forward.
- iv. Question: Can faculty or Faculty Senate see the report and recommendations before Friday?

a. No, they will be presented on Friday to get feedback first.

### 2. President Salajan stated that the Shared Governance Committee is fully staffed. The Grading Policy Committee is missing people from the Colleges of Business and Health Professions. The International and Global Engagement Committee lacks a number of people.

- i. Please send in nominations as soon as possible. If the Faculty Senate does not have adequate representation on the committees then we should vote to disband the committee/s at the next regular Faculty Senate meeting.

## VII. Consent Agenda.

- 1. UCC Report
- 2. Policy 100
- 3. Policy 167

4. Policy 724

- i. Senator Arnold had Policy 134.1 moved to New Business: Arnold.
- ii. President Salajan declared that the consent agenda was approved without objection.

VIII. Unfinished Business: None.

IX. General Order.

- 1. Proposed amendment to the Faculty Senate Bylaws (Article II, Section 6)
  - i. Motion to approve amendment to the Faculty Senate Bylaws (Article II, Section 6): Cooley/Andrianova
  - ii. Motion to amend Article IV, Section 9 to include more members to the Faculty Rights Committee: Selekwa/
    - a. President Salajan ruled the motion out of order because the requested change had not been distributed to the faculty nine days before the meeting in which it is considered.
    - b. Requested change added to new business.
  - iii. Motion approved (Appendix 2 - Q1): 31 (Selekwa)<sup>1</sup> aye; 1 nay; 2 abstain

X. New Business.

- 1. Policy 328
  - i. Motion to approve: Arnold/Hassel
  - ii. No discussion
  - iii. Motion approved (Appendix 2 - Q2): 29 (Selekwa) aye; 1 nay; 4 abstain
- 2. Policy 134.1
  - i. Motion to approve: Arnold/Selekwa
  - ii. No discussion
  - iii. Motion approved (Appendix 2 - Q3): 31 (Selekwa) aye; 2 nay; 1 abstain
- 3. Proposal for prior learning assessment for the degree completion program
  - i. Motion to approve: Andrianova/Wood
  - ii. Question about the origin of this proposal and who wrote it.
    - a. Jessie Bauer gave information on the proposal. This option is being accepted at many universities for returning students with work experience as an option to facilitate degree

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<sup>1</sup> Senator Selekwa voted in person on Q1-Q3; therefore, his vote is not recorded in the vote tallies in Appendix 2.

completion. A small committee of staff was created to write the proposal.

- iii. Question about how many students would be using it and what is the review process?
  - a. Not many students will take this option. Had 54 students for whom this policy is relevant registered since 2020. Many of them would want this option but only a couple would use it per semester.
  - b. A faculty member from each college examines each proposal to determine if the student meets the outcomes.
- iv. Motion approved (Appendix 2 - Q4): 32 aye; 2 nay; 2 abstain.
- 4. Motion to consider for the next Faculty Senate meeting a change to Faculty Senate Bylaws Article IV, Section 9 to include 7 members on the Standing Committee on Faculty Rights - one from each college: Selekwa/Emmanuelson
  - i. North Dakota SBHE Policy 605.2 states that the committee may have 3 or 5 members only.
  - ii. Motion was withdrawn.

XI. Adjournment: Roberts/Overton

- 1. Approved unanimously
- 2. Adjourned at 4:12pm

## Appendix 1

Attendance Name	Substitution	Present
Aldrich-Wolfe, Laura		X
Amiri, Ali		X
Andrianova, Anastassiya		X
Arnold, Lisa		X
Asa, Eric		X
Berg, Eric		X
Burt, Sean		X
Byrd, Christopher		X
Choi, Juwon		X
Christensen, Warren		X
Cooley, Dennis		X
Creese, John	Mataic, D.	X
Emanuelson, Pam		X
Fellows, Kristen		X
Harringer, Shannon		X
Hassel, Holly		X
Hershberger, John		Absent
Hong, Yontao (David)		X
Huseth-Zosel, Andrea		X
Jackson, Jeremy		X
Kilina, Svetlana		Absent
Larson, Jamee		X
Limb, Ryan	Prischmann-Voldseth, D.	X
Lin, Zhibin		X
March, Raymond		X
McGrath, Ryan	Smith, J.	X
Nordstrom, Onnolee		X
O'Rourke, Stephen		X
Overton, Kimberly		X
Peltier, Allison		X
Philbrick, Candace		X
Rahman, Mukhlesur		X
Roberts, David		X
Ross, Darrell		X
Salajan, Florin		X

Selekwa, Majura	X
Smith, Matthew	X
Thompson, Sara	X
Tian, Ruilin	X
Ungar, Abraham	X
Wood, Scott	X
Wu, Xiangfa	X
Yan, Changhui	X
Yan, Guiping	X
Zhang, Qi	X
Zhao, Pinjing	X



## Appendix 2

**Session Name:** Ballot 11-15-2021 4-24 PM

**Date Created:** 11/15/21, 3:52:05 PM      **Active Participants:** 36 of 52

**Questions:** 4

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### Results Detail

Last Name	First Name	Q1	Q2	Q3	Q4
ALDRICH-WOLFE	Laura	AYE	AYE	AYE	AYE
ANDRIANOVA	Anastassiya	AYE	AYE	AYE	AYE
ARNOLD	Lisa	AYE	AYE	AYE	AYE
ASA	Eric	AYE	AYE	AYE	AYE
BERG	Eric	AYE	AYE	AYE	AYE
BURT	Sean	AYE	AYE	AYE	AYE
BYRD	Christopher	AYE	AYE	AYE	AYE
CHOI	Juwon	AYE	AYE	AYE	AYE
CHRISTENSEN	Warren	AYE	AYE	AYE	AYE
FELLOWS	Kristen	AYE	AYE	AYE	AYE
HARRIGER	Shannon	AYE	AYE	AYE	AYE
HASSEL	Holly	AYE	AYE	AYE	AYE
HONG	Yongtao	AYE	AYE	AYE	AYE
HUSETH-ZOSEL	Andrea	AYE	AYE	AYE	AYE
JACKSON	Jeremy	AYE	ABS	AYE	AYE
LARSON	Jamee	AYE	AYE	AYE	AYE

MARCH	Ray	NAY	NAY	NAY	NAY
MATAIC	Dane	AYE	AYE	AYE	AYE
NORDSTROM	Onnolee	AYE	AYE	AYE	AYE
O'ROURKE	Stephen	AYE	AYE	AYE	AYE
OVERTON	Kimberly	AYE	AYE	AYE	AYE
PHILBRICK	Candace	AYE	AYE	AYE	AYE
RAHMAN	Md Mukhlesur	AYE	AYE	AYE	AYE
ROBERTS	David	AYE	ABS	NAY	NAY
ROSS	Darrell	AYE	AYE	AYE	AYE
SELEKWA	Majura	-	-	-	AYE
SMITH	Joseph	AYE	ABS	AYE	ABS
SMITH	Matthew	AYE	AYE	AYE	AYE
THOMPSON	Sara	AYE	AYE	AYE	AYE
TIAN	Ruilin	-	-	-	AYE
VOLDSETH	Deirdre	ABS	AYE	AYE	AYE
WOOD	Scott	AYE	AYE	AYE	AYE
YAN	Changhui	ABS	ABS	ABS	ABS
YAN	Guiping	-	-	-	AYE
ZHANG	Qi	AYE	AYE	AYE	AYE
ZHAO	Pinjing	AYE	AYE	AYE	AYE

**University Curriculum Committee Report  
For Faculty Senate Meeting on December 13, 2021**

<b>New Programs (Pending State Approval)</b>			
Undergraduate Minor Professional Ethics			

<b>Program Update</b>			
Bachelor of Science in Civil Engineering adding CE 472 to program.			
M.S. Emergency Management – Program inactivation.			
Minor Entrepreneurship – Adjusted program electives.			
PhD Emergency Management – Program inactivation.			

<b>New Courses</b>			
Subject	No.	Title	Effective Term
ASM	234	3D Printing and Manufacturing	Fall 2022
ASM	348	Agricultural Technology Exposition	Fall 2022
ENTR	401	Entrepreneurship Capstone	Spring 2022

<b>Changes in Course Descriptions and/or Requisites</b>				
Subject	No.	Title	Title/Prerequisite/Co-requisite/Description Change	Effective Term
ASM	225	Computer Applications in Agricultural Systems Management	<b>Remove co-req:</b> MATH 105, MATH 107 OR MATH 146. New Prereq: CSCI 114 or TL 116; and MATH 103.	Fall 2022
CHP	300	Introduction to the U.S. Health Care System	<b>New Description:</b> This course introduces students to the structure, design and groups who participate in the U.S. health care system. Emphasis will be placed on describing the roles of various health professions, organizations and/or settings in which health care is provided, and the mechanisms by which health care is financed. Students will also gain an understanding of how these components frame major issues of health policy and public health that include, ensuring access to services, ensuring high quality care, and ensuring that care is provided efficiently. This course will also immerse students in reasoning-related activities that facilitate teamwork and a commitment to the roles and responsibilities required of all health professionals.	Fall 2022
CHP	301	Research Methods in Health Services	<b>Requisite Change:</b> New Prereq: Junior or senior status, and completion of STAT 330 with a grade of “C” or higher.	Spring 2022
ENVE	370	Sustainability Engineering	<b>Description Change:</b> Remove 3 1-hour lectures. <b>Change Pre-req:</b> Remove MATH 266 leave ENVE 250.	Spring 2022
HNES	468	Leadership and Communication in Dietetics	<b>Course Number Change:</b> from HNES 460 to HNES 468.	Fall 2022
HNES	668	Leadership and Communication in Dietetics	<b>Course Number Change:</b> from HNES 660 to HNES 668.	Fall 2022
HNES	776	Non-Orthopedic Assessment	<b>Credit Change:</b> from 2 credits to 3 credits.	Fall 2022
IME	440	Engineering Economy	<b>Credit Change:</b> from 2-4 credits to 2-3 credits.	Fall 2021
NRM	421	Environmental Outreach Methods	<b>Adding prereq:</b> Jr/Sr Standing Only	Spring 2022
NRM	462	Natural Resource and Rangeland Planning	<b>Adding prereq:</b> At least senior standing and must be a Natural Resources Management, Range Science or Soil Science major. <b>Changing abbreviated title to:</b> Capstone	Spring 2022
PAG	215	Mapping of Precision Ag Data	<b>Change prereq:</b> Adding GEOG 115 with PAG 115.	Spring 2023

**University Curriculum Committee Report  
Addendum For Faculty Senate Meeting on December 13, 2021**

<b>New Programs (Pending State Approval)</b>	
B.S. Software Engineering	
Minor International Studies	

<b>Program Update</b>	
B.S./B.A. Theatre Arts – Adding course electives.	
M.S. Criminal Justice – Adjusted plans.	
M.Acc.Accountancy – Remove ACCT 730 and adding ACCT 755 to program.	
Minor Wellness – Remove inactive course from program.	
Minor Public Policy – Adding recently approved courses.	

<b>New Courses</b>			
Subject	No.	Title	Effective Term
CHP	650	Complementary and Alternative Therapies: An Evidence-Based Approach	Fall 2022
HNES	414	International Sport	

<b>Changes in Course Descriptions and/or Requisites</b>				
Subject	No.	Title	Title/Prerequisite/Co-requisite/Description Change	Effective Term
PAG	455	Applications of Big Data in Precision Agriculture	Change prereq: Removing PAG 215, adding PAG 454.	Fall 2022

## Policy Change Cover Sheet

This form must be completed for each policy presented. All areas in **red** including the header must be filled in or it will be sent back to you for completion. Gender-inclusive language should be used in revised and new policies submitted to SCC.

\*If the revisions you are requesting include housekeeping changes, please submit the housekeeping changes first. The SCC Secretary will notify you once the housekeeping changes have been made and you can submit the Policy Change Cover Sheet at that time. Please submit housekeeping changes to [ndsu.scc@ndsu.edu](mailto:ndsu.scc@ndsu.edu).

Refer to the [NDSU Senate Coordinating Council process](#) for more information about housekeeping changes.

### **Policy Number and Name:** 350.2: BOARD REGULATIONS ON STANDING COMMITTEE ON FACULTY RIGHTS

**Effect of policy addition or change:** Explain the important changes in the policy or effect of this policy. Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s):

The changes were made to be in alignment with changes made to the SBHE/North Dakota University System policy 605.2. See SBHE minutes 4/29/2021 at <https://ndus.edu/sbhe-overview/agendas-minutes-videos/>. Also copied below: Policy underwent legal review and recommended edits after conclusion of a recent Standing Committee on Faculty Rights hearing which brought to light additional clarification needed in several areas. Due to the sensitive nature of the policies extra time was allowed for committee and council review and feedback. System office employees and legal attended the February CCF meeting to review the recommended changes. After a thorough review and discussion, the CCF supported the changes overall.

The proposed change corrects section 4, “as the cited open meetings statutes do not apply to SCOFR hearings. Instead, the policy establishes a presumption that SCOFR hearings will be closed to the public unless the faculty member requests that the hearing be open.”

**Is this a federal or state mandate:** ☐ Yes ☒ No (but from SBHE)

**Individual/Department/Committee or Organization submitting the policy change:** Faculty Affairs/Office of the Provost

**Date Submitted to SCC Secretary:** 9/26/2021

**Email address of the person who should be contacted if revisions are requested:**  
[canan.bilen.green@ndsu.edu](mailto:canan.bilen.green@ndsu.edu)

The SCC Secretary will keep record of all actions taken on this policy change request on the SCC policy tracking spreadsheet. You will be notified once the policy has been approved and updated or if further revisions are requested.

# North Dakota State University

## Policy Manual

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### SECTION 350.2

#### BOARD REGULATIONS ON STANDING COMMITTEE ON FACULTY RIGHTS

SOURCE: SBHE ~~Policy Manual, Section Policies~~ 605.1, 605.2, 605.3, 605.4, 605.5

1. Each institution shall have a Standing Committee on Faculty Rights consisting of three or five tenured faculty members elected for staggered terms by the faculty governance structure. The Committee shall elect its own presiding officer annually and shall hold formal hearings in accordance with the procedures described in section 605.4 on all matters referred to it under these policies. The Committee shall judge any allegation of bias or conflict of interest. In the event that an individual member is judged by the Committee to be biased or to have a conflict of interest in a specific case, the Committee shall replace the member with a substitute member for that case.

1.1 *The NDSU Standing Committee on Faculty Rights has been established according to the bylaws of the Faculty Senate, Article IV, Section 8.*

2. Each institution shall adopt procedures concerning mediation implementing section 605.5 of these policies. Institutions shall pay all mediation costs.

~~2.3.~~ *2.1 See NDSU Policy 350.5 for NDSU's mediation procedures.*

~~3.4. Chapter 44-04 of the North Dakota Century Code, relating to open meetings and records, including section 44-04-19.2 concerning confidential or closed meetings, applies to Standing Committees on Faculty Rights. Pursuant to N.D.C.C., 44-04-20, each committee chair shall file in the president's office the name, address and telephone number of a person who may be contacted to obtain information concerning meetings or to request notice of meetings. Proceedings before a standing committee on faculty rights shall concerning the appointment or removal, including nonrenewal, of a faculty member may, pursuant to N.D.C.C., 15-10-17, be closed to the public, unless the faculty member requests that the proceedings be open, in which case the proceedings shall be open. Proceedings not concerning the appointment or removal of a faculty member, including proceedings concerning discipline not involving dismissal, shall be open.~~

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#### HISTORY:

Replaces portions of Policy 605, SBHE Minutes April 25, 1995, pg 6554.

Amended April 25, 1995

Amended July 1, 1996

Amended May 10, 2000

Amended December 2001

Amended August 2003

Housekeeping February 14, 2011

Housekeeping April 25, 2011

## Policy Change Cover Sheet

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Refer to the [NDSU Senate Coordinating Council process](#) for more information about housekeeping changes.

**Policy Number and Name:** 350.5: MEDIATION

**Effect of policy addition or change:** Explain the important changes in the policy or effect of this policy. Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s):

The changes were made to be in alignment with changes made to the SBHE/North Dakota University System policy 605.2. See SBHE minutes 4/29/2021 at <https://ndus.edu/sbhe-overview/agendas-minutes-videos/>. Also copied below: Policy underwent legal review and recommended edits after conclusion of a recent Standing Committee on Faculty Rights hearing which brought to light additional clarification needed in several areas. Due to the sensitive nature of the policies extra time was allowed for committee and council review and feedback. System office employees and legal attended the February CCF meeting to review the recommended changes. After a thorough review and discussion, the CCF supported the changes overall.

These changes clean up outdated language and better reflect the reality of the NDUS's situation regarding mediation. Specifically,

- General clean-up and clarification items throughout.
- Section 5: Reflects that the NDUS no longer has mediators on staff which can be offered to the campuses for free.
- Section 7: Clarifies when parties may withdraw from mediation.

**Update from Legal on 10/8/2021:** M. Hammer: Fixed three typos in policy, reflected in redlines.

**Is this a federal or state mandate:** ☐ Yes ☒ No (but from SBHE)

**Individual/Department/Committee or Organization submitting the policy change:** Faculty Affairs/Office of the Provost

**Date Submitted to SCC Secretary:** 9/26/2021

**Email address of the person who should be contacted if revisions are requested:**  
[canan.bilen.green@ndsu.edu](mailto:canan.bilen.green@ndsu.edu)

The SCC Secretary will keep record of all actions taken on this policy change request on the SCC policy tracking spreadsheet. You will be notified once the policy has been approved and updated or if further revisions are requested.



# North Dakota State University

## Policy Manual

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### SECTION 350.5 MEDIATION

SOURCE: [NDUS-SBHE Policy 605.5](#)

#### 1. For purposes of this Policy

a) "Mediation" means a process in which a mediator facilitates communication between parties to assist the parties in reaching voluntary decisions related to their dispute.

a)b) "Administration" means any person who has acted on behalf of the institution under [NDSU Policy 350.3](#).

1.2. This policy applies to faculty as defined in [section SBHE Policy 605.1 of these policies](#) (350.1 NDSU Policy Manual). It does not apply to employees governed by the NDUS Human Resource Policy Manual or to administrators, ~~or~~ coaches, [or faculty members acting](#) in their administrative or coaching capacity. Mediation is available upon agreement of the parties under [SBHE Policy section 605.3](#) (350.3 NDSU Policy Manual), excluding ~~ept~~ subsection 8, ~~of these policies~~. Mediation is not available in proceedings initiated under [SBHE Policy 65005.3 subsection\(8\) of section 605.3](#). For other proceedings governed by [SBHE Policy section 605.3](#), a faculty member or the administration may request mediation and mediation shall proceed upon agreement of the parties. ~~As used in this policy, "administration" means any person who has acted on behalf of the institution under section 605.3.~~ For grievances governed under [SBHE Policy section 612 of these policies](#) (353 NDSU Policy Manual), participation in mediation by all parties is mandatory, which means that parties ~~are required to~~[shall](#) participate in at least one mediation session.

2.3. The following mediation procedures and time ~~lines period~~ apply to [SBHE Policy section 605.3 of these policies](#):

- a) A faculty member or the administration may request mediation in accordance with institutional policy.
- b) Within 15 calendar days of receipt of the written request, the mediator shall meet with identified parties to explain the mediation process.
- c) If ~~the identified~~ parties agree to mediate, the mediator shall schedule a first mediation session within 10 calendar days of reaching an agreement to mediate. Upon agreement to mediate, other internal proceedings and the time ~~lines periods~~ provided for those other proceedings shall be stayed pending conclusion of mediation.
- d) The first mediation session begins a 20 calendar-day period or a mutually agreed upon mediation period during which participants attempt to resolve the dispute. At the conclusion of the mediation period, the mediator shall notify the appropriate institutional representatives in accordance with institutional policy whether or not the issues have been resolved.

~~3.4.~~ The following mediation procedures and time ~~period~~lines apply to ~~SBHE Policy section 612 of these policies~~:

- a) Participation in mediation is mandatory in connection with grievances under ~~SBHE Policy section 612 of these policies~~. Other internal proceedings and the time ~~period~~lines provided for ~~those~~ other proceedings shall be stayed pending conclusion of mediation.
- b) Within 15 calendar days of receipt of the written grievance, the mediator shall meet with identified parties to explain the mediation process.
- c) The mediator shall schedule a first mediation session within ten calendar days of the meeting under subsection 4b.
- d) The first mediation session begins a 20 calendar-day period or a mutually agreed upon mediation period during which participants attempt to resolve the dispute. At the conclusion of the mediation period, the mediator shall notify the appropriate institutional representatives in accordance with institutional policy whether or not the issues have been resolved.

~~4.5.~~ Mediators may be selected by agreement of the parties. ~~If the parties do not agree on a mediator, a mediator shall be assigned by the North Dakota University System staff from a pool of trained, volunteer mediators available through the NDUS office.~~ The College of Council Faculties may offer its advice and recommendations concerning selection of the mediation pool.

~~6.~~ Mediators shall facilitate and coordinate the process. Mediators may not issue orders, find fault, impose solutions, or make decisions for the mediation participants.

~~5-7.~~ For proceedings in which the parties have agreed to mediate, either party may withdraw from mediation at any time, and for those proceedings in which mediation is mandatory, either party may withdraw from mediation at any time after the first mediation session.

~~6-8.~~ All time ~~lines~~periods in this ~~section~~policy are suspended between May 16 and August 15 as to all nine-month faculty unless all parties expressly waive the suspension.

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HISTORY:  
Amended

August 2003

## Policy Change Cover Sheet

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Refer to the [NDSU Senate Coordinating Council process](#) for more information about housekeeping changes.

**Policy Number and Name:** **353: GRIEVANCES – FACULTY**

**Effect of policy addition or change:** Explain the important changes in the policy or effect of this policy. Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s):

The changes were made to be in alignment with changes made to the SBHE/North Dakota University System policy 605.2. See SBHE minutes 4/29/2021 at <https://ndus.edu/sbhe-overview/agendas-minutes-videos/>. Also copied below: Policy underwent legal review and recommended edits after conclusion of a recent Standing Committee on Faculty Rights hearing which brought to light additional clarification needed in several areas. Due to the sensitive nature of the policies extra time was allowed for committee and council review and feedback. System office employees and legal attended the February CCF meeting to review the recommended changes. After a thorough review and discussion, the CCF supported the changes overall.

Cleans up ambiguity regarding when grievances may be made, by who, and under what procedures. Specifically,

- Section 1: Clarifies the creation of procedures regarding faculty grievances.
- Section 2: Clarifies what actions may be grieved.
- Section 3: Clarifies what employees and in what capacity faculty may grieve an institutional action.

**Is this a federal or state mandate:** ☐ Yes ☒ No **(but from SBHE)**

**Individual/Department/Committee or Organization submitting the policy change:** Faculty Affairs/Office of the Provost

**Date Submitted to SCC Secretary:** 9/26/2021

**Email address of the person who should be contacted if revisions are requested:** [canan.bilen.green@ndsus.edu](mailto:canan.bilen.green@ndsus.edu)

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# North Dakota State University

## Policy Manual

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### SECTION 353

#### GRIEVANCES – FACULTY

SOURCE: SBHE Policy Manual, Section 612  
NDSU President

1. Each institution, in consultation with its faculty governance structure, shall establish policies and procedures to attempt mediation or resolution of faculty grievances and to define the procedures for filing a grievance in accordance with principles of shared governance. This Policy is intended to provide a fair, internal process for resolving certain employment-related disputes that arise between faculty and administrators.
2. "Grievance" means an allegation of a violation by an NDSU administrator of a specific Board or institutional policy, procedure or practice pertaining to the employment relationship. This includes the terms of the grievant's employment contract. Discretionary actions, such as salary increases and performance evaluations, may not be grieved, except to determine: (a) whether the discretionary action was made in accordance with relevant Board or institutional policies, practices, procedures or criteria; and (b) whether the action constitutes a clear abuse of discretion.

"Grievance" does not include any matters covered under NDSU policies 350.1-350.5 and 352 or equal opportunity grievances which are governed by NDSU Policy 156. Grievances cannot be filed against the text or method of passage of written SBHE or NDSU policies, but may pertain to the implementation of those policies per se.

3. This policy applies only to faculty as defined in NDSU Policy 350.1. It does not apply to classified staff, or to administrators, or coaches, or to faculty related to actions while the faculty member is acting in their capacity as an administrator or coach.

1. Grievant may only initiate the grievance process described in this policy after communicating with the administrator whose decision is the subject of the grievance (the "respondent") in a good-faith attempt to resolve the matter. In the event that such communication fails to achieve a satisfactory result, then the grievant must attempt to discuss the matter with the respondent's immediate supervisor. The grievant shall put the basis for the grievance in writing if requested by either the respondent or the respondent's supervisor. In the event that communication with the supervisor fails to achieve a satisfactory result, then the grievant may appeal to a Special Review Committee (the "SRC") by filing a written grievance with the presiding officer of the Faculty Senate no later than 120 calendar days from the date when the grievant is notified of the grievable issue. The grievant is permitted to file an appeal to the SRC prior to the outcome of the previous steps in order to retain the right of appeal. The SRC shall review the written grievance in order to determine if the grievance was timely filed and if the matter is properly grievable. The SRC shall dismiss the grievance if the matter was not timely grieved or properly grievable. Such decision to dismiss by the SRC shall be appealable by either party to the Standing Committee on Faculty Rights ("SCOFR") by filing a written request for an opinion within 10 calendar days of receiving the SRC's decision to dismiss the grievance. The SCOFR shall offer the non-appealing party an opportunity to respond to the appeal in writing and provide the non-appealing party

**Commented [MEM1]:** Please clarify this.

**Commented [CB2R1]:** See: SBHE 612 section2  
Grievances cannot be filed against the text or method of passage of written SBHE policies, or the text of institutional policies, but may pertain to the implementation of those policies.  
<https://ndusbpos.sharepoint.com/:w:/s/NDUSPoliciesandProcedures/EZdarB2bTChBpRIKWg8sdRABGnlsVRlfr5TdC3PaXqk7w?rttime=DcVkrTuM2Ug>

a reasonable opportunity to provide such response. The SCOFR, after reviewing the written positions of each party shall issue its opinion within 30 calendar days of the time of the filing of the request for an opinion.

2. The SRC shall attempt to resolve the grievance on an informal basis. The SRC may, in its discretion, require the parties to participate in mediation (NDSU Policy 350.5) and/or use other dispute resolution options available through the University Ombudsperson. Should the grievance remain unresolved after mediation and/or informal dispute resolution, then the SRC shall proceed to the formal resolution process.
  3. Hearings for the formal resolution process shall be scheduled as expeditiously as possible and with due regard for the schedule of both parties. Grievances involving faculty who hold academic year (AY) appointments will normally not be held during summer semester unless the faculty member has a summer appointment. The grievant bears the burden of proving that there has been a violation of policy or established practice. The SRC shall report its findings and recommendations in writing within 21 days of the completion of the hearing to the grievant, the respondent, the President, the Provost and to the administrator who is the respondent's immediate supervisor.
  4. The SRC shall consist of the following members:
    - (a) Three members, none of whom can be from the same Department as the grievant, shall be chosen from a pool selected by the Faculty Senate Executive Committee on an annual basis. This pool shall be comprised of tenured faculty members (two from each of the colleges in the University), for one-year terms coinciding with the term of the President of the Faculty Senate. Any faculty member may serve up to four successive terms in such a position.
    - (b) The SRC Chair shall be selected by the President of the Faculty Senate.
    - (c) The grievant shall select one member from the pool and the person against whom the grievance is brought shall select the other member from the pool. The Committee shall judge any allegation of bias or conflict of interest. In the event that an individual member is judged by the Committee to be biased or to have a conflict of interest in a specific case, the Committee shall replace the member with a substitute member for that case.
    - (d) Emeritus professors are eligible for memberships on the SRC.
    - (e) Faculty holding administrative appointments are not eligible for membership on the SRC. "Administrative appointment" includes appointments as President, Vice President, Dean, Associate or Assistant Dean, Department Chair or Head, or Associate or Assistant Department Chair or Head of an Academic Unit.
  5. The final decision will be made by the Provost so long as the grievance is not against the Provost or any individual who reports directly to the Provost. In those situations, the President shall make the final decision. The Provost (or when applicable, the President) shall, within 30 days of receipt of the recommendation, provide written notice of her/his decision to the grievant, the respondent, and to the administrator who is the respondent's immediate supervisor. That decision shall be final.
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HISTORY:

Amended	June 26, 1986
Amended	November 18, 1990
Amended	June 1995
Amended	June 1998
Amended	November 2000
Amended	March 2002
Amended	August 2003
Amended	March 2005
Housekeeping	June 2009
Housekeeping	February 14, 2011
Amended	June 1, 2011
Amended	April 10, 2017

## Policy Change Cover Sheet

This form must be completed for each policy presented. All areas in **red** including the header must be filled in or it will be sent back to you for completion. Gender-inclusive language should be used in revised and new policies submitted to SCC.

\*If the revisions you are requesting include housekeeping changes, please submit the housekeeping changes first. The SCC Secretary will notify you once the housekeeping changes have been made and you can submit the Policy Change Cover Sheet at that time. Please submit housekeeping changes to [nds.scc@nds.edu](mailto:nds.scc@nds.edu).

Refer to the [NDSU Senate Coordinating Council process](#) for more information about housekeeping changes.

**Policy Number and Name:** **311 Summer Session Teaching Salary**

**Effect of policy addition or change:** Explain the important changes in the policy or effect of this policy.

**Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s):**

1. The current policy only applies to permanent faculty and does not provide guidance on salaries for part-time academics (PTAs) or graduate teaching assistants (GTAs).
2. The amount paid to graduate teaching assistants and part time academics has been the same for at least 10 years (\$850/credit for GTAs; \$1300/credit for PTAs). The amount paid to full-time faculty has increased with pay increases. Over the years, the disparity in pay has become wide, and in order to decrease that gap and pay GTAs and PTAs a fair wage, we would want to look at placing a cap or other restrictions on salary.
3. The Summer appropriated budget has received across-the-board cuts along with other departmental budget cuts. The funds to pay instructor salaries are limited by this budget, so this would provide the flexibility to maximize offerings and support student needs by restructuring the pay. The policy change would allow for a maximum salary per credit that could still be negotiated with the Office of Summer Session by the College or Department.
4. This policy change would also allow us to offer more classes that students need to catch up or stay on track during the summer. The summer session ad-hoc committee has generated a list of classes that have high DFW rates or are regularly filled to or past capacity during the academic year.
5. A cap of \$2500/credit, for example, would still be higher than most other university summer rates. For example, University of California Chico pays approximately \$2334/credit, but cost of living is almost 28% more expensive than Fargo, North Dakota. More data available upon request.

**Is this a federal or state mandate:** ☐ Yes ☒ No

**Individual/Department/Committee or Organization submitting the policy change:**

**Melissa Lamp, Summer Session Director and the Ad Hoc Committee on Summer Session**

**Date Submitted to SCC Secretary:** 11/2/2021

**Email address of the person who should be contacted if revisions are requested:** [melissa.lamp@nds.edu](mailto:melissa.lamp@nds.edu)

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# North Dakota State University

## Policy Manual

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### SECTION 311

#### SUMMER SESSION TEACHING SALARY

SOURCE: NDSU Faculty Handbook

Faculty members employed by NDSU on a ~~non-academic full-time~~ basis and who are also employed for the summer session(s) will be paid ~~a percentage based on previous year salary with a maximum amount~~ on the basis of their teaching load multiplied by a percentage of their previous academic year salary. The payment structure, including any applicable maximum payments, shall be, as determined by the Director of Summer ~~School~~Session and/or the Office of the Provost, who may ~~in consultation with the applicable College and/or Department, based on available budgetary resources.~~

Graduate assistants and part-time academic appointees will be paid at a flat rate per credit as determined by the Director of Summer Session and/or the Office of the Provost. Departments and Colleges may supplement instructor pay by coordinating with the Office of Summer Session.

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HISTORY:  
New July 1990



## Policy Change Cover Sheet

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Refer to the [NDSU Senate Coordinating Council process](#) for more information about housekeeping changes.

**Policy Number and Name:** 350.3: BOARD REGULATIONS ON NONRENEWAL, TERMINATION OR DISMISSAL OF FACULTY

**Effect of policy addition or change:** Explain the important changes in the policy or effect of this policy. Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s):

The changes were made to be in alignment with changes made to the SBHE/North Dakota University System policy 605.2. See SBHE minutes 4/29/2021 at <https://ndus.edu/sbhe-overview/agendas-minutes-videos/>. Also copied below: Policy underwent legal review and recommended edits after conclusion of a recent Standing Committee on Faculty Rights hearing which brought to light additional clarification needed in several areas. Due to the sensitive nature of the policies extra time was allowed for committee and council review and feedback. System office employees and legal attended the February CCF meeting to review the recommended changes. After a thorough review and discussion, the CCF supported the changes overall.

These changes resolve unclear language and clarify the responsibilities of faculty and the institution during the SCOFR process. Specifically,

-Section 4: Clarification as to under what circumstances a faculty member on special appointment is entitled to a SCOFR hearing, along with the process for requesting a SCOFR hearing.

-Section 7: Clarified language regarding the basis for adopting procedures.

-Section 8(c): Clarified that a temporary suspension or reassignment to other duties during the pendency of a decision on dismissal was not grievable, except to the extent that reassigned duties are not within the scope of a faculty position.

**Is this a federal or state mandate:** ☐ Yes ☒ No (but from SBHE)

**Individual/Department/Committee or Organization submitting the policy change:** Faculty Affairs/Office of the Provost

**Date Submitted to SCC Secretary:** 9/26/2021

**Email address of the person who should be contacted if revisions are requested:**

canan.bilen.green@ndsu.edu

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# North Dakota State University

## Policy Manual

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### SECTION 350.3

#### BOARD REGULATIONS ON NONRENEWAL, TERMINATION OR DISMISSAL OF FACULTY

SOURCE: SBHE [Policy Manual, Section Policies](#) 605.1, 605.2, 605.3, 605.4

1. A probationary appointment may be terminated, without cause, with notice to the faculty member that the appointment will not be renewed.
  - a. Notice shall be given:
    - 1) At least 90 days prior to termination during the first year of probationary employment at the institution.
    - 2) At least 180 days prior to termination during the second year of probationary employment at the institution.
    - 3) At least one year prior to termination after two or more years of probationary employment at the institution.

*If a faculty member is appointed during the academic year, then the initial contract shall indicate when the first academic year of service at the institution begins. For the purpose of this section, "academic year of service" means on a probationary appointment. The twelve months notice may be given at any point during the calendar year and the appointment terminates twelve months thereafter. (This NDSU language clarifies the interpretation that has been applied to this NDUS language throughout the University System.)*

- b. A department chair, dean or other person authorized under institution policies to give such notice shall provide written notice of the decision, including a reference to the policy section pursuant to which the action is taken. The faculty member may within ten calendar days after receipt of the notice request a reconsideration by the deciding body or individual. The faculty member may incorporate a request for mediation in the request for reconsideration. The institution shall respond in writing to the faculty member within ten calendar days after receipt of the request.

*Nonrenewal decisions shall be made in every instance by the University President. Recommendations for nonrenewal shall be initiated within the academic unit in accordance with Policy 352. Colleges shall have specific procedures for nonrenewal recommendations prior to the sixth year in accordance with Policy 352 and 350.3.2 (See below.). A department chair may initiate a review for nonrenewal at any time.*

2. An institution may terminate a probationary appointment, effective at the end of any contract term, with no less than 90~~-days~~ notice of nonrenewal, based upon a determination by the Board that a financial exigency exists which requires such action at an institution or institutions, or upon determination by the institution that such action is necessary because of loss of legislative appropriations, loss of institutional or program enrollment, consolidation of organizational units or program areas or elimination of courses. The notice of nonrenewal shall include a reference to the policy section pursuant to which the action is taken. When a probationary appointment is

terminated pursuant to this subsection, the provisions of subsection 1 do not apply.

3. A special appointment expires at the end of the term stated on the contract and may be renewed at the discretion of the institution.

4. The following individuals may request review of the below decisions and a hearing by the Standing Committee on Faculty Rights-

a. A faculty member on a probationary appointment which is not renewed; or

b. A faculty member whose special appointment is terminated.

~~The decision to renew or not renew a special appointment is not reviewable under subsection 4 of this policy; it is, however, reviewable under Policy 353: Grievances— Faculty. Additionally, a special appointment may be terminated prior to the term stated on the contract. A decision to terminate a special appointment prior to the term stated on the contract is reviewable pursuant to subsection 4 of this policy. (See Policy 350.1, 4c.)~~

The request for review and a hearing must be made within twenty calendar days after receipt of notice of the proposed action or, if the faculty member requests reconsideration or the parties agree to mediation pursuant to this Policy, within twenty calendar days of receipt of the results of the reconsideration or conclusion of mediation, request review of the decision and hearing by Standing Committee on Faculty Rights by following the process set forth in NDSU Policy 350.4. Such request shall be filed in writing with the deciding body or individual and the chair or the senior member of the Standing Committee on Faculty Rights. The request for review may be based on allegations that the institution failed to comply with applicable policies or gave the decision inadequate consideration, or that the nonrenewal decision violated (a) academic freedom, (b) rights guaranteed by the United States Constitution, or (c) terms of the employment contract or other written agreement. The allegation must be supported by a specification of the reasons why the decision violated these rights and a summary of the evidence supporting the allegation(s). “Inadequate consideration” means that the decision was arbitrary and capricious, or not the result of a conscientious and deliberative review process in which relevant evidence was considered and irrelevant evidence was excluded, or that the process lacked fundamental fairness. The institution shall, within twenty calendar days of receipt of the written notice and specifications, provide a written response to the faculty member and the chair of the Standing Committee on Faculty Rights.

~~3.—A faculty member on probationary or special appointment may, within twenty one calendar days after receipt of notice of nonrenewal of a probationary appointment or termination of a special appointment or, if the faculty member requests reconsideration or the parties agree to mediation under paragraph b of subsection 1, within twenty one calendar days of receipt of the results of the reconsideration or conclusion of mediation, request review of the decision and hearing by Standing Committee on Faculty Rights by following the process set forth in NDSU Policy 350.4. The request for review may be based on allegations that the institution failed to comply with applicable policies or gave the decision inadequate consideration, or that the nonrenewal decision violated (a) academic freedom, (b) rights guaranteed by the United States Constitution, or (c) terms of the employment contract or other written agreement. The allegation must be supported by a specification of the reasons why the decision violated these rights and a summary of the evidence supporting the allegation(s). “Inadequate consideration” means that the decision was arbitrary and capricious, or not the result of a conscientious and deliberative review process in which relevant evidence was considered and irrelevant evidence was excluded, or that the process lacked fundamental fairness.~~

4.5. \_\_\_\_\_ A faculty member may terminate an appointment effective at the end of the term of the appointment by giving notice in writing at the earliest possible opportunity, but not later than May 15, or one month after receiving notification by the institution of the terms of an appointment for

the coming academic year, whichever date occurs later. The faculty governance structure at an institution may recommend procedures permitting a faculty member to request a waiver of this deadline in case of hardship or for other good cause defined by those procedures. An institution may provide that failure without reasonable cause by a faculty member to return a contract by the time set forth in the contract shall constitute a resignation. Any return time so established by the contract shall be reasonable.

#### *Resignation or Retirement*

*Generally accepted standards of professional ethics (see AAUP Statement on Recruitment and Resignation of Faculty Members) require faculty members who plan to resign or retire to give prompt notice in writing to their chair or supervisor. This includes prompt notice when employment is accepted elsewhere. Only in personal emergencies or for other compelling reasons, should faculty members leave during the academic year, except when this coincides with the expiration of their contractual obligations.*

5-6. An institution may terminate an appointment of a tenured faculty member following a determination by the Board that a financial exigency exists which requires such action at an institution or institutions, or upon determination by the institution that such action is necessary because of loss of legislative appropriations, loss of institutional or program enrollment, consolidation of academic units or program areas, or elimination of courses. In such cases, significant consideration shall be given to length of service and tenure status in the retention of faculty members within the affected academic unit or program area, curriculum requirements, professional achievements, breadth of competence, and equal employment opportunity. A tenured faculty member terminated pursuant to this subsection shall be given written notice of termination, including the reason(s) for the action, at least twelve months prior to the date of termination. Each institution shall establish procedures for implementing this policy.

- a. A tenured faculty member given notice of termination under this section may request that the institution circulate his or her vita to other academic units or program areas within the institution. In addition, the institution shall ensure that fair consideration is given to the faculty member, during the period of the terminal appointment, for vacant academic positions in the employing institution for which the faculty member is qualified. The faculty within any academic unit or program area shall have the major responsibility in determining qualifications for appointment therein. If a tenured faculty member accepts an appointment in a different academic unit or program area, the faculty member shall retain his or her tenure status, subject to approval of the Board.
- b. A position terminated under this section shall not be filled by a replacement within two years, unless the released faculty member has been offered appointment with tenure and a reasonable time within which to accept or decline it.
- c. The provisions of section 605.4 (NDSU 350.4) do not apply when a tenured faculty member is terminated under this subsection. The faculty member may, however, within twenty-one calendar days of receipt of notice of termination, file a request for review under processes established at the institution for that purpose.
  - 1) *An administrative decision to terminate a tenured faculty member within the university shall be preceded by the following steps:*
    - a) *Consultation with the dean of the college or equivalent unit involved regarding the justification for terminating tenured appointments.*

- b) *Consultation with the faculty and the relevant PTE committee in an academic unit or program regarding the termination of tenured appointments.*
- 2) *Once the administration decision is finalized following these consultations, the identification of faculty members for termination shall be made by the University president following recommendations by the dean.*

6-7. In accordance with ~~principles of shared governance~~~~section 305.1 of these policies~~, the faculty governance structure at each institution shall adopt procedures by which faculty participation is solicited before notice of termination is given any tenured faculty member pursuant to subsection 6. Faculty participation shall be solicited concerning:

- a. The extent to which there are grounds for termination of tenured appointments;
- b. Judgments determining where within the overall academic program termination of appointments may occur; and
- c. The procedure and criteria for identifying the individuals whose appointments are to be terminated.

1) *An administrative decision to terminate a tenured faculty member within the university shall be preceded by the following steps:*

- a) *Consultation with the Executive Committee of the Faculty Senate regarding the extent to which there are grounds for termination of tenured appointments.*
- b) *Consultation with the ~~Academic-Faculty~~ Affairs committee of the ~~University-Faculty~~ Senate regarding the justification for terminating tenured appointments, if that is a consequence of the decisions; and*
- c) *Consultation with the ~~Academic-Faculty~~ Affairs committee, or the equivalent, of the college or equivalent unit involved regarding the justification for terminating tenured appointments.*
- d) *Consultation with the faculty in an academic unit or program regarding the consequences of the decision.*

2) *Once the administration decision is finalized following these consultations, the identification of faculty members for termination shall be made by the University president following recommendations by the dean.*

- 8. A faculty member may be dismissed at any time for adequate cause. Adequate cause means: (a) demonstrated incompetence or dishonesty in teaching, research, or other professional activity related to institutional responsibilities, (b) continued or repeated unsatisfactory performance evaluations and failure to respond in a satisfactory manner to a recommended plan for improvement; (c) substantial and manifest neglect of duty, (d) conduct which substantially impairs the individual's fulfillment of his or her institutional responsibilities or the institutional responsibilities of others, (e) a physical or mental inability to perform assigned duties, provided that such action is consistent with laws prohibiting discrimination based upon disability, or (f) significant or continued violations of Board policy or institutional policy, provided that for violations of institutional policy the institution must notify the faculty member in advance in writing that violation

would constitute grounds for dismissal, or the institutional policy must provide specifically for dismissal as a sanction.

- a) An authorized institution officer shall give written notice of intent to dismiss and specify the reasons for the action. The officer may, in the officer's discretion, also schedule a meeting with the faculty member to discuss the action. The notice shall state that the officer will forward to the institution president a recommendation to dismiss unless the faculty member, within twenty-one calendar days of receipt of the notice, requests a hearing before the Standing Committee on Faculty Rights. If the faculty member does not make a timely request for a hearing, the president, upon receipt of a recommendation to dismiss, shall make a decision and provide written notice and reasons for the action to the faculty member within ten business days of receipt of the recommendation.

- 1) *Written notice of the intent to terminate or dismiss shall be given to the faculty member.*
- 2) *Appropriate administrative officers include the academic unit or program chair and the dean of the college or equivalent unit.*

*The written notice of termination or dismissal from the President must in any event be given within 60 days of the initial written notice of intent to terminate or dismiss.*

- b) A faculty member may, within twenty-one calendar days of receipt of notice of intent to forward to the institution president a recommendation to dismiss, request for a formal hearing before the Standing Committee on Faculty Rights, pursuant to section 605.4. (NDSU 350.4)
- c) Pending a final decision on dismissal for adequate cause, the faculty member may be suspended by the institution's president, or assigned to other duties in lieu of suspension, if it is reasonably determined that it is in the best interests of the faculty member or the institution to do so. The decision to suspend a faculty member or to assign a faculty member to other duties under this paragraph shall not be subject to grievance under NDSU Policy 353, except to the extent that the assigned duties are not within the scope of a faculty position. The faculty member's salary and fringe benefits shall continue during a period of suspension. Salary and benefits shall be terminated upon a final decision by the institution president to dismiss the faculty member following conclusion of proceedings at the institution.
- d) This section shall not apply to conduct by a faculty member which is alleged to constitute sexual harassment under Title IX of the Education Amendments of 1972, which is governed by NDSU Policy 156.1.

9. If the administration determines that the conduct of a faculty member, although not constituting ground for termination or dismissal, provides reasonable cause for imposition of a sanction, the administration shall inform the faculty member in writing of the sanction and the reasons for the sanction. A sanction means demotion, suspension (but not including suspension pending a dismissal or termination decision), salary reduction or loss of salary, or restriction or loss of privileges imposed as a formal disciplinary measure. A sanction does not include implementation of an improvement plan or performance action plan or negative comments in a performance review, letter of reprimand or other document placed in a personnel file; rights to respond to a performance review or a letter of reprimand or other document placed in a personnel file are set forth in N.D.C.C. , 54-06-21 and institution grievance procedures adopted under SBHE Policy 612. If the sanction is imposed following a hearing by the Standing Committee on Faculty Rights and based on the



hearing record, there is no further review. If the sanction is imposed without a hearing, the faculty member may request review upon filing with the institution's president and chair or senior member of the Standing Committee on Faculty Rights a request for review and specifications of reasons within twenty-one calendar days of receipt of notice of imposition of a sanction. The institution shall have twenty-one calendar days following receipt of the request for review to file a response. The Standing Committee on Faculty Rights shall review the matter according to procedures established at the institution for that purpose and issue a written report within twenty-one calendar days of receipt of the institution's response and may make a recommendation to resolve the dispute, stating its reasons. The institution shall make its final decision upon reconsideration and provide written notice of that decision to the faculty member within ten business days of receipt of the report and recommendation of the Standing Committee on Faculty Rights. Upon filing of a request for review pursuant to this subsection, imposition of the sanction shall be suspended pending a final decision of the institution's president following conclusion of those proceedings.

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#### HISTORY:

Replaces portions of Policy 605, SBHE Minutes April 25, 1995, pg 6554.

Amended	April 25, 1995
Amended	July 1, 1996
Amended	January 1997
Amended	October 1998
Amended	February 2001
Amended	June 2003
Amended	August 2003
Amended	March 2004
Amended	February 2005
Amended	November 2005
Amended	March 2010
Housekeeping	February 14, 2011
Housekeeping	February 27, 2012
Amended	March 5, 2012
Amended	June 22, 2015
Amended	August 14, 2020
Amended	December 14, 2020

## Policy Change Cover Sheet

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Refer to the [NDSU Senate Coordinating Council process](#) for more information about housekeeping changes.

**Policy Number and Name:** 350.4: BOARD REGULATIONS ON HEARINGS AND APPEALS

**Effect of policy addition or change:** Explain the important changes in the policy or effect of this policy. Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s):

The changes were made to be in alignment with changes made to the SBHE/North Dakota University System policy 605.2. See SBHE minutes 4/29/2021 at <https://ndus.edu/sbhe-overview/agendas-minutes-videos/>. Also copied below: Policy underwent legal review and recommended edits after conclusion of a recent Standing Committee on Faculty Rights hearing which brought to light additional clarification needed in several areas. Due to the sensitive nature of the policies extra time was allowed for committee and council review and feedback. System office employees and legal attended the February CCF meeting to review the recommended changes. After a thorough review and discussion, the CCF supported the changes overall. These changes bring the policy closer into line with the analogous HR Policy, while still respecting the unique nature of the faculty position. The changes also reflect needed clarifications and policy improvements.

Section 1: Clean-up item referencing the corresponding SBHE policy

Section 3: Clarifies that when either party refuses to participate in discovery, the SCOFR may consider that as part of the recommendation. The final decision maker is still the President.

Section 5 (and elsewhere): Change in terminology—the SCOFR makes recommendations; the President makes decisions on the appeal.

Section 6 Provides that the SCOFR may request independent advice from an NDUS attorney who does not represent the institution.

Section 7: Provides that electronic recording of the SCOFR hearing is sufficient to meet the requirement that a transcript be prepared. This change was made due to the cost of obtaining a transcript prepared by a court reporter, which often reaches thousands of dollars.

Section 8: Clarifies that the committee's findings of fact are limited to the appeal before the committee, and that any recommendations outside of the appeal issue (although warranted) (such as policy, procedure, or other changes) should be vetted through the normal process.

Section 11: Provides the President with additional time to reach a final decision due to unforeseen circumstances.



**UPDATE FROM LEGAL 10/8/2021: M. Hammer: Added omitted language to section one: "The written notice shall include the specific reasons or grounds upon which the request for a hearing is based."**

Is this a federal or state mandate: ☐ Yes ☒ No (but from SBHE)

Individual/Department/Committee or Organization submitting the policy change: Faculty Affairs/Office of the Provost

Date Submitted to SCC Secretary: 9/26/2021

Email address of the person who should be contacted if revisions are requested:  
canan.bilen.green@ndsu.edu

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# North Dakota State University

## Policy Manual

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### SECTION 350.4

#### BOARD REGULATIONS ON HEARINGS AND APPEALS

SOURCE: SBHE Policy Manual, Section 605.1, 605.2, 605.3, 605.4

1. A faculty member may request a hearing with the Standing Committee on Faculty Rights in accordance with NDSU Policy 350.3 (SBHE Policy 650.3) by filing a written notice, accompanied by a specification of the reasons or the grounds upon which the appeal is based, with the Committee chair or senior member of the Committee and the institution's president. The written notice shall include the specific reasons or grounds upon which the request for a hearing is based. The institution shall have ten business days from receipt by its president of the notice and specifications to file a response with the Committee Chair or senior member of the Committee and the faculty member.
2. The Committee shall appoint, at the expense of the institution according to institution procedures, a hearing officer with authority to conduct pre-hearing meetings, supervise exchange or collection of information, advise the Committee or preside over the hearing. The faculty member, the institution and their representatives shall comply with all reasonable directives and requests of the hearing officer appointed by the Committee. The institution shall provide necessary clerical support for the Committee, and upon request, for the hearing officer.
3. The Committee or the hearing officer shall hold a pre-hearing meeting or meetings in order to (a) simplify the issues, (b) effect stipulations of facts, (c) provide for or assist with the exchange of documentary or other information, or (d) achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious. The faculty member, the institution and their representatives shall participate in pre-hearing meetings upon request and comply with the directives of the Committee or the hearing officer. (*"Discovery" is defined as the exchange or collection of information.*) Discovery shall be informal and formal depositions or interrogatories for the purposes of discovery are not permitted, except by with agreement of the parties. Failure to participate in discovery or at the pre-hearing conference, or to comply with the directives of the committee by either the faculty member or the institution may be considered by the committee when it issues its recommendation.
4. The Committee or the hearing officer shall serve written notice of hearing on the faculty member and the president or their representatives at least twenty calendar days prior to the hearing.
5. The faculty member and the institution may stipulate to a decision-resolution on the basis of the written statements; in which case the Committee shall make its decision-recommendation on that basis.
6. During the proceedings the institution and the faculty member are entitled to have an administrative or academic advisor and counsel of their choice and at their own expense. The committee may request that it be provided with counsel that does not represent the institution or employee to advise it throughout the process; such counsel may include counsel who advise other institutions or the NDUS office. Proceedings concerning the appointment or removal of a faculty member may, pursuant to N.D.C.C. Section 15-10-17, be closed, unless the faculty member requests that the proceedings be open, in which case the proceedings shall be open. Proceedings

~~not concerning the appointment or removal of a faculty member, including proceedings concerning discipline not involving dismissal, shall be open. Proceedings shall be closed to the public unless the faculty member requests that the proceedings be open. N.D.C.C. ch. 44-04's open meetings requirements do not apply to the committee's proceedings.~~

7. A verbatim transcript of the hearing or hearings shall be made at the institution's expense and shall be accessible to both parties. An electronic recording of the hearing or hearings is sufficient to meet the requirements of this paragraph. A party shall be provided a copy of the record, or part of the record, upon request, at the institution's expense.
8. The findings of fact, conclusions and ~~the decision~~recommendations shall be based solely on the evidence received by the Committee. In cases brought under section 605.3(4), the faculty member has the burden of persuasion to prove, by a preponderance of the evidence, that the action violated the faculty member's rights; in cases appealed pursuant to section 605.3(8) or (9), the burden of proof that grounds for the institution's action exist shall rest with the institution and be satisfied only by clear and convincing evidence in the record considered as a whole. The committee's findings of fact, conclusions, and recommendations shall be limited to the appeal before the committee. If the committee has recommendations for policy, procedure or other institutional changes related to the appeal, those recommendations may be raised through the ordinary process for such changes.
9. The Committee may admit any evidence which is of probative value in determining the issues or if the interests of justice will best be served by admitting the evidence. Every reasonable effort shall be made to obtain the most reliable evidence available. The Committee shall grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.
10. The faculty member shall be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The institution shall cooperate with the Committee in securing witnesses and making available documentary and other evidence. The faculty member and the institution shall have the right to confront and cross-examine all witnesses. Testimony may be taken by deposition, including deposition by telephone, or witnesses may testify by telephone, facsimile, video or other electronic means, upon agreement of the parties or, absent an agreement, upon request of a party and determination by the Committee or hearing officer that such use does not substantially prejudice the rights of any party. Affidavits may be received into evidence upon stipulation of the parties.
11. The Committee's findings of fact, conclusions and recommendations, with supporting reasons, shall be reported, in writing, to the institution's president and the faculty member or the faculty member's representative. If the institution's action was a notice of dismissal and if the Committee concludes that adequate cause for dismissal has been established, but that a lesser penalty would be more appropriate, it may so recommend with supporting reasons. The president shall make a decision and provide written notice of the decision, including findings of fact and reasons or conclusions based on the hearing record, to the Committee and the faculty member within twenty calendar days of receiving the report, unless the president determines that more time is required due to unforeseen circumstances, in which case the president may extend the period by 10 calendar days on notice to the parties and committee. The faculty member or Committee may, within ten calendar days of the decision, submit a written response to the decision, to which the president may, but is not required to, reply.
12. The decision of the president is final.

13. This Policy shall not apply to appeals from a determination of responsibility regarding a formal complaint of sexual harassment under Title IX of the Education Amendments of 1972, which is governed by NDSU Policy 156.1.

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HISTORY:

Replaces portions of Policy 605, SBHE Minutes April 25, 1995, pg 6554.

Amended April 25, 1995

Amended March 1998

Amended February 2001

Amended August 2003

Amended December 2005

Amended August 14, 2020

Amended December 14, 2020

Charge: Within a shared governance of student, staff and faculty senates, create a set of shared understandings and recommendations for students, staff, faculty and administration to navigate when and how in-person, hybrid, remote synchronous, and remote asynchronous teaching environments should be conducted.

Purpose: NDSU has historically used a residential, in-person educational model. While some options of “online” instruction have been available, we are currently faced with a complex array of teaching modalities (e.g. in-person, hybrid with instructor in-person, hybrid with instructor remote, remote synchronous, and remote asynchronous) and with no shared understanding among students, staff and faculty on what the affordances and constraints are for these different modalities. As an example, faculty are expected to teach courses in-person because surveys from students suggest that they prefer to be in the classroom. However many courses are being offered in a HyFlex format, and for many courses the majority of students are choosing to attend remotely, which isn’t consistent. Furthermore, a good amount of evidence suggests that students attending remotely, on average, are achieving lower grades than their counterparts that attend in-person which could further harm their ability to progress toward a degree. The balancing points for this are difficult to find and hence this Working Group will work towards understanding these better.

This Working Group will comprise 4 representatives from the Student body, 4 representatives from the Staff body, 4 representatives from the Faculty body. Each governing body of these three groups (Student Senate, Staff Senate and Faculty Senate) will select appropriate representatives to serve on the Working Group such that it adequately represents that body’s interests. The Working Group will be led by two Co-Chairs. One each from those Working Group members representing the Student body and those members representing the Faculty body. The Registrar will serve as an ex officio member of the working group to provide feedback on any understandings and recommendations produced by the working group.

The recommendations for this Working Group will be presented publicly through emails, to a university-wide discussion group, to administrators and the three governing bodies. The goal of this Working Group will not be to enact policy change, but perhaps a call for any future policy changes might be guided by the outcomes of this Working Group.