

STUDENT RIGHTS & RESPONSIBILITIES

A CODE OF CONDUCT 2019-2020

1. Introduction

North Dakota State College of Science (the “College”) promotes the exchange of knowledge in an environment that encourages reasoned discourse, intellectual honesty, and the respect for the rights of all individuals. In support of this goal, the primary purpose of the following Student Code of Conduct (“Code of Conduct” or “Code”) is to educate and guide students to understand their rights and responsibilities in regard to appropriate behavior and respect for others in the College community.

Contents of this code may be subject to change prior to reprinting of this document. If changes are made, documents relating to the changes will be available from the Executive Director for Student and Residential Life and/or communicated to students through the official College email or website at www.NDSCS.edu/Students-Rights. An attempt has been made to reference local, state or federal laws that complement College policies.

Conduct described in this code is illustrative rather than exhaustive. In the event there arises some ambiguity, inconsistency, or need for clarification of these statements, the definition, interpretation or clarification will be determined at the discretion of the Executive Director for Student and Residential Life, from whom any student, staff or faculty member may request written clarification. Final authority for interpretation of this code lies with the vice president for student affairs.

Respect for the NDSCS Community

All NDSCS stakeholders have a responsibility to respect the NDSCS community. It is vital for all individuals to conduct themselves in a manner that does not negatively affect the educational mission of the College or the welfare of themselves or others. This includes promoting an environment conducive to learning and fostering a sense of shared and mutual community responsibility. Community responsibility also involves awareness of how personal decisions affect others.

Respect for the Protection and Rights of Others

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

Respect for Individuals in the Conduct Resolution Process

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

1.1 General Concerns, Issues and Complaints

Students may report concerns, issues and complaints through at the official NDSCS concern form at www.NDSCS.edu/Concern. The form is designed to address students’ complaints, concerns, or issues in a timely manner by appropriate College personnel, and to help students learn effective conflict resolution skills.

Students may also arrange a meeting with the NDSCS Student Advocate, located in Old Main (Wahpeton) or by appointment in Fargo, 701-671-2541 or NDSCS.StudentAdvocate@ndscs.edu for advice and direction in resolving a complaint, concern, or grievance as described below. Concerns regarding student conduct covered in this code will be resolved according to procedures described in this document.

1.2 Student Academic Complaints and Grievances

General

A complaint or grievance exists when an enrolled student is dissatisfied with a decision or an aspect of his or her academic college experience over which the student has no control and on which remedial action is desired.

1.3 Resolving Academic Complaints or Grievances

Initially, the student should attempt to resolve the concern directly with the appropriate department chair, supervisor, faculty member, staff member or student. If the complainant is not satisfied, or is unwilling to address the issue at the individual or departmental level, the complainant should contact the department chair, director or academic dean with administrative responsibility for the department or individual involved. These individuals may be able to provide assistance in resolving the issue in an informal manner at the individual or department level. If informal resolution is not successful or is deemed unrealistic, the administrator will inform the complainant of the formal grievance process.

Filing a Formal Academic Grievance

Step 1. Students wishing to file a formal academic grievance shall do so to the department chair, director, or academic dean with responsibility for the department or individual involved by submitting the grievance in writing. The grievance shall be submitted within five business days of the departmental decision or determination by the administrator that informal resolution is not possible.

Step 2. The department chair, director, or academic dean, either alone or in consultation with appropriate faculty, staff and students, will initiate the resolution process by investigating the complaint. An alternate resolution or decision will be reached within 10 business days of receipt of the grievance and communicated to the complainant in writing. If there is no appeal, the decision of the department chair, director or academic dean is final.

Filing an Appeal of an Academic Grievance Decision

If the complainant is not satisfied with the resolution or decision, a written appeal may be submitted to the vice president for academic affairs office (via email or delivered to Haverty Hall 123) within five business days of the decision. The appeal must be based on one or more of the following factors:

- the established procedures were not properly followed; or
- an adequate opportunity to present evidence was not allowed; or
- additional information exists that was not available or considered at the time of the decision; or
- the evidence was not substantial enough to justify the decision.

The vice president for academic affairs shall assemble a Student Academic Grievance Committee within 10 business days of receipt of the written appeal. The Student Academic Grievance Committee shall be composed of two students designated by the Student Senate, two faculty members designated by the Faculty Senate and the vice president for academic affairs or his/her designee. A member with a conflict of interest may be removed or may voluntarily withdraw from the committee if the situation warrants such action.

The vice president for academic affairs or his/her designee shall inform the complainant and Student Academic Grievance Committee of the specific time and place of the meeting. The committee shall review the written appeal provided by the complainant and the record made by the department chair, director or academic dean, and reach a decision based upon these documents. The committee may, in its sole discretion, receive additional testimony or other evidence and make that information part of its record. Upon reaching a decision, the vice president for academic affairs or their representative shall, if possible, orally communicate the committee's decision to the student followed by a written decision within two business days. The decision of the Student Academic Grievance Committee is final.

All references to business days shall be actual days that college offices are open.

All students have the right to present grievances in accordance to the steps outlined in this policy and are assured freedom from discrimination, coercion, restraint or reprisal in presenting grievances.

If a student chooses to appeal an academic grievance decision, he/she is allowed to register and attend classes pending a resolution of the appeal. The student is responsible for any charges (tuition, fees, housing, dining services, tools, etc.) incurred during the review process. The student must adhere to the NDSCS Student Guide to Rights and Responsibilities: A Code of Conduct. Students engaging in dangerous, unlawful, or ongoing disruptive behavior may be denied from attending classes.

1.4 Equal Opportunity and Non-Discrimination Grievance Procedures

Equal Opportunity Policy

The North Dakota State College of Science is an equal opportunity employer and equal opportunity educator. NDSCS is fully committed to equal opportunity in employment decisions and educational programs and activities. All practices are in

compliance with all applicable federal and state laws, for all individuals without regard to age, color, gender identity/expression, genetic information, marital status, national or ethnic origin, physical and mental ability status, public assistance status, race, religion, sex, sexual orientation, familial or parental status, status as a U.S. veteran/service member, 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.

1.5 Non Discrimination Statement

North Dakota State College of Science does not discriminate on the basis of age, color, gender identity/expression, genetic information, marital status, national or ethnic origin, mental or physical disability, public assistance status, race, religion, sex, sexual orientation, familial or parental status, status as a U.S. veteran/service member, 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. This non-discrimination statement applies to all phases of NDSCS's employment process, admissions, financial aid programs and all other aspects of its educational programs and activities.

Furthermore, this non-discrimination statement applies to sexual harassment and sexual violence (forms of sexual discrimination) if such conduct has a negative effect on an individual's educational or work environment, regardless if such conduct occurs on or off College property.

Concerns, issues, or complaints may be reported at www.NDSCS.edu/Concern or students may contact the NDSCS Student Advocate at 701-671-2541 or NDSCS.StudentAdvocate@ndscs.edu. For more information visit www.NDSCS.edu/Diversity.

2. Community Expectations

2.1 General Student Responsibilities

All students are expected to observe the College standards published in this code and those outlined in any other College policies, procedures, contracts or license contracts published elsewhere (College catalog and website, formal College notices and communications). In addition, students are expected to observe all community, state, federal and international laws (when touring and/or studying abroad).

2.2 Individuals Covered Under This Code

For the purpose of this document, "student" is defined as any individual who has been admitted to the College or who was previously enrolled in the College. Students no longer enrolled in the College may be held accountable under this code for violations committed after they were admitted and before they left the College. Student clubs/organizations are held to the same conduct standards that apply to individual students.

2.3 Official College Communication

The College will communicate through the official NDSCS e-mail address that is provided by the College. This address is considered the official form of communication for all purposes. It is the student's responsibility to monitor their College provided email on a regular basis.

2.4 Prohibited Conduct Not on College Property

The College may discipline a student for acts of prohibited conduct committed off of College property. When NDSCS becomes aware of alleged code violations through law enforcement or other third party reports, the College may hold students accountable under this code.

2.5 Tri-College University Policies

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

2.6 Multiple Accountabilities

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

- Student leaders within student organizations
- Personnel actions with student employees
- Academic actions under academic programs' standards
- Criminal charges or civil suits

Actions under this code are educational (administrative) as are other actions taken under NDSCS policies. Because the College's procedures are educational and not criminal in nature, such separate proceedings do not constitute double/triple jeopardy. The College may proceed under this code before, during or after the other NDSCS administrative processes or legal proceedings, and does not typically wait for a court finding. Findings under this code may differ from judgments in criminal courts.

2.7 Financial Responsibility

All students must pay in full any debts to NDSCS. For further information regarding paying your bill or collection procedures, please contact the Business Affairs Office at 701-671-2216 or NDSCS.BusinessAffairsOffice@ndscs.edu.

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

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

2.8 Attempts

Individuals who attempt to commit acts prohibited by the Code of Conduct may be charged, found responsible and sanctioned to the same extent as if they had committed the prohibited acts.

2.9 Bias-Motivated Violations

Any code violation that is determined to have been motivated by hate against individuals or groups outlined in section 1.3 of this code (Equal Opportunity and Non-Discrimination Statement) may result in enhanced sanctions above those typically assigned for the same violations when not motivated by hate.

2.10 Repeated Code Violations

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

2.11 Designees

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

3. Prohibited Conduct

3.1 Violations of Law

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

3.2 Passive Participation in Prohibited Acts

Passive Participation refers to a students' reasonable knowledge of and presence during acts of another prohibited by this Code. To avoid passive participation in code violations, students are expected to do one or more of the following:

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

Passive participants may be sanctioned to the same extent as if they had committed the prohibited act. Students are accountable for their guests' conduct and may be sanctioned under this provision as if they had committed the violations themselves.

3.3 Alcohol on NDSCS Property

NDSCS is committed to maintaining a healthy academic and social environment conducive to the academic and personal development of students, faculty, and staff.

Regardless of a person's age, the manufacture, sale, transfer, purchase, transportation, possession, use or consumption of alcohol (in any form), and/or possession or display of empty alcohol beverage containers anywhere on NDSCS owned or controlled property and/or sponsored or supervised events is prohibited. For more information and to view the full NDSCS Alcohol and Other Drug Policy, visit www.NDSCS.edu/Alcoholinfo.

Any individual present in a room/suite/apartment or on NDSCS property where the alcohol policy is being violated, whether participating or not, may be found responsible for a violation of the alcohol policy related to passive participation.

3.4 Alcohol Off NDSCS Property

Students may face College sanctions under this code for alcohol related incidents occurring off College property. Such incidents include, but are not limited to: minor in possession/consumption/under the influence of alcohol, driving under the influence of alcohol, public consumption of alcohol, and providing alcohol to a minor.

3.5 Drugs Other Than Alcohol

Possession, consumption, being under the influence, transport or transfer of illegal drugs or any other controlled substances not prescribed to you is prohibited. The manufacture, exchange, distribution, purchase or sale of illegal drugs or controlled substance is prohibited. The possession of drug paraphernalia is prohibited.

Possession or consumption of medical marijuana, regardless of prescription, anywhere on NDSCS owned or controlled property and or at sponsored or supervised events is also prohibited. For more information and to view the full NDSCS Alcohol and Other Drug Policy, visit www.NDSCS.edu/Alcoholinfo.

3.6 Conduct While Under the Influence of Alcohol or Other Drugs

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

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

3.7 Responsible Action Expectations (also known as medical amnesty)

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

Responsible action includes:

- a. **CALL** for help: In medical emergencies, immediate action should be taken by calling 9-1-1 either on or off College property. In non-emergency situations, you can also contact NDSCS Police at 701.671.2233 or notify Residential Life staff at 701.899.2820.
- b. **STAY** with the individual until help arrives and you have been told your assistance is no longer needed.
- c. **COOPERATE** with responding staff or emergency personnel, including all requests for information and assistance.

Students/student organizations who take such appropriate action, or for whom such action is taken, will not be subject to the Student Conduct process for charges related to alcohol or drug use. However, all students [including the student(s) needing assistance and the reporter(s)] may be required to have an educational meeting with College personnel and/or complete an educational program. This protection may not apply, if other conduct violations occurred within the same incident.

3.8 Tobacco and e-Cigarettes/Vaping devices

The use of tobacco and of e-cigarettes/vaping devices is prohibited on College property at all times. This prohibition includes indoors, outdoors, inside College vehicles and/or personal vehicles while on College property. This policy applies to employees, students and visitors. The possession of e-Cigarettes/vaping devices is prohibited inside all residential facilities.

For more information and to view the full NDSCS Alcohol, Tobacco and Other Drug Policy, visit www.NDSCS.edu/Alcoholinfo.

3.9 Animals

With the exception of animals authorized by NDSCS Accessibility Services or those defined as service animals under the Americans with Disability Act (ADA), privately-owned animals are prohibited inside College buildings, with the exception of fish (in a tank 10 gallons or less).

Students requesting to house animals authorized by NDSCS Accessibility Services must schedule a meeting with Residential Life staff to complete the NDSCS Assistance Animal or Service Animal Registration and Agreement. Students must comply with the guidelines in this document at all times.

Animals in outdoor areas must be on a leash, must be under the control of the owners or their designees at all times and should not be left unattended. Owners are responsible for any health or safety issues that may arise concerning the presence of these animals on College property and at NDSCS outdoor sponsored or supervised events.

3.10 Use of NDSCS's Name or Trademarks

Use of NDSCS's name without proper authorization is prohibited.

3.11 Computer-Related Conduct

Please see NDUS policy 1901.2, Computing Facilities ndus.edu/state-board-of-higher-education/sbhe-policies/1900-heading-policies. If additional questions remain, contact the Information Technology Services Help Desk in the Student Center or online at NDSCS.ServiceDesk@ndscs.edu.

The following is a non-exhaustive list of unacceptable uses of the NDSCS electronic communications resources:

- Unauthorized use, sharing, lending or borrowing of an account;
- Using computer services or facilities for purposes other than those for which the account was issued;
- Copying, altering, or destroying the files of output of another individual without the express permission of that individual;
- Altering system software or hardware configuration, or disrupting or interfering with the delivery or administration of computer resources;
- Misrepresenting oneself as another individual or entity in electronic communications;
- Using the College's network system to download copyright protected media including, but not limited to, books, music, movies, television programs, games and software without proof of purchase or permission;
- Exceeding College bandwidth limits;
- Sharing or distributing copyright-protected media without legal authorization;
- Abusing or misusing the computer facilities so as to cause damage, program disturbances or harassment to other individuals;
- Using the College's network system to enter obscene material into College-owned computers or send obscene material through the Internet or any other electronic system;
and/or
- Any other violation of College or NDSCS policies governing electronic communications, as referenced above.

3.12 Deception/Falsification/Misrepresentation

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

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

3.13 Financial Aid Misuse

Misuse of financial aid through fraud or abuse is prohibited.

3.14 Disruption of College Business

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

3.15 Failure to Comply

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

3.16 Identification

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

3.17 Bribery

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

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

3.18 Arson

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

3.19 Burglary

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

3.20 Robbery

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

3.21 Motor Vehicle Theft

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

3.22 Theft of Property

Theft or removal of property belonging to the College or another individual or organization is prohibited.

3.23 Theft of Services

Using College services to which one is not entitled is prohibited. This includes, but is not limited to, using campus laundry services intended only for College residents, using parking services not purchased, using dining plans not purchased, and unauthorized use of College printing services.

3.24 Possession of Stolen Property

Possession of goods that one knows or that any reasonable person would realize were stolen; also, to receive, retain, conceal, or dispose of property knowing that it was stolen.

3.25 Vandalism

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

3.26 Trespassing

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

3.27 Unauthorized Sales or Solicitations

Unauthorized sales or solicitations in residence halls, College apartments, or in any other College buildings are prohibited at any time. Authorization may be sought through Student Life.

3.28 Unauthorized Entry/Use of Facilities

Unauthorized entry onto the property of the College or into a College facility or any portion thereof that has been reserved, restricted in use or placed off limits; unauthorized presence in any College facility after closing hours; and unauthorized possession or use of a key/access card to any college facility are prohibited. Unauthorized activities shall include, but are not limited to, entry, use or occupancy to which students are not permitted by virtue of enrollment, employment, class schedule, and/or gender in facilities restricted by gender. College areas that are restricted include, but are not limited to, all building roofs, steam tunnels, elevator shafts, equipment and mechanical storage rooms and construction sites.

Duplication, manufacture, possession or loaning of any key/access card or unlocking device for use on College facilities, locks or other property on College premises without proper authorization are prohibited.

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

3.29 Intimidation

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

3.30 Physical Assault

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

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

3.31 Instigation/Provocation

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

3.32 Disorderly Conduct

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

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

3.33 Discrimination, Harassment and Retaliation

NDSCS is fully committed to equal opportunity in educational programs/activities and employment decisions for all individuals (employees, students, third parties).

Any discriminatory (different or inequitable treatment) or harassing action(s); unwelcome oral, written, graphic, or physical conduct, based on one or more of the protected classes (see Non-Discrimination Statement in section 1.3) of an individual (or group), that is sufficiently severe, persistent, or pervasive so as to unreasonably interfere with their education, employment, or other participation in educational programs or activities or that creates a working, learning, or educational program or activity environment that a reasonable person would find hostile, intimidating, or abusive is prohibited. Harassment may include, but is not limited to, threats, physical contact or violence, offensive jokes, insults or put-downs, slurs or name calling, vandalism/graffiti, or offensive objects or pictures. Petty slights, annoyances, and isolated incidents (unless very serious) typically do not rise to the level of harassment.

Retaliation includes intimidation, harassment, reprisal, or other adverse/unfavorable action taken against an individual (or group) in response to a protected activity, which includes, but is not limited to, filing a concern, complaint, reporting discrimination and/or harassment, or participating in a discrimination and/or harassment investigation. Retaliation is strictly prohibited.

Students may report concerns, issues and complaints through the form located at www.NDSCS.edu/Concern or by contacting the NDSCS Student Advocate at 701-671-2541 or NDSCS.StudentAdvocate@ndscs.edu.

3.34 Other Acts of Harassment

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

3.35 Stalking

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

3.36 Lewd or Obscene Conduct

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

3.37 Sexual and Gender Based Harassment, Sexual Misconduct and Title IX Compliance Policy

NDSCS strives to create a College community free from sexual discrimination/misconduct of any kind. For complete information regarding sexual misconduct and Title IX compliance, see NDSCS Policy – [Sexual Misconduct and Title IX Compliance Policy and reporting options](#). Students are encouraged to [report](#) incidents or information related to sexual and gender based harassment and sexual misconduct as soon as possible.

3.38 Endangerment of Safety of Individuals

Endangerment of individuals is prohibited. Endangerment includes actions/behaviors that either intentionally or unintentionally create a Examples include, but are not limited to:

- Initiating or circulating a report or warning concerning an impending bombing, a fire, or other emergency or catastrophe knowing that the report is false, or knowingly transmitting such a false report to an official or an official agency, is prohibited.
- Willful failure to comply with orders issued by any emergency personnel during any real or perceived emergency condition is prohibited. Examples include, but are not limited to, tornado, fire, fire drill, bomb threat or situations requiring shelter in place.
- Tampering with any fire protection sign or device or any other emergency equipment, including, but not limited to, fire extinguishers, fire hoses, smoke/heat detectors, sprinkler systems and other alarm systems, for reasons other than an actual or perceived emergency, is prohibited.
- Tampering with elevator controls, elevator shaft access, and/or other elevator equipment by acts including, but not limited to, jumping, elevator surfing, falsely sounding alarms and stopping between floors, is prohibited.

- Willful failure to follow safety standards is prohibited.
- Creating a risk of bodily harm or falsely creating the impression of risk of bodily harm to others is prohibited.
- Knowingly focusing, pointing or shining a laser pointer at an aircraft or at a person is prohibited. A laser pointer is any device that creates a visible light used for aiming, targeting or pointing out features.

3.39 Weapons/Firearms/Explosives

Possession, display or storage of weapons in College owned buildings is prohibited. **All firearms must be registered with NDSCS Police immediately upon arrival to NDSCS.** Unauthorized and/or illegal possession, display or use of firearms, live or spent ammunition, explosives or other weapons is prohibited.

Firearms and weapons include, but are not limited to, airsoft guns, BB guns, dart guns, handguns, paint ball guns, pellet guns, rifles, shotguns, stun guns or similar devices designed to deliver an electric shock, daggers, knives (blade greater than four inches in length), sabers, swords, and bows and arrows.

Explosives include, but are not limited to, bombs, explosives, fireworks, live ammunition, and other incendiary devices. Incendiary devices are defined as any flammable substance enclosed in a readily breakable container that can be equipped with an igniter of any type.

Other weapons include, but are not limited to, martial arts implements, dangerous fuels and chemicals. Any object may be considered a weapon when used to inflict or threaten infliction of bodily injury or property damage.

Throwing or casting any object into, upon, or against any building, structure, motor vehicle or at any person is prohibited.

This policy shall not prohibit individuals or student organizations from possessing, storing or using weapons at approved locations for the purpose of meeting requirements of educational programs and/or approved activities being conducted by a student group recognized by the College.

NDSCS Police provides storage for students to store sporting arms, such as those used for hunting and other shooting sports. An officer must be present for check-in/check-out.

3.40 Sporting Activity Restrictions

Riding skateboards, hover boards, or scooters and using in-line skates, roller skates, and bicycles is prohibited inside all College facilities. Use of water guns, water balloons and use/throwing of flying discs, balls or other objects also are prohibited indoors, except when authorized. Use of projectile launchers is prohibited on College property without documented permission by an appropriate College official. Launchers may include those intended for water balloons, potatoes, pumpkins and other items.

4. Student Clubs and Organizations/Activities

4.1 Responsibilities of Student Clubs, Organizations and Affiliated College Groups

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

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

4.2 Student Clubs, Organizations and Affiliated College Group Compliance with College Policy

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

4.3 Conduct Resolution and Enforcement Procedures

For information concerning the code resolution procedure(s) to be utilized, refer to Part V. Procedures and Part VI. Procedures for Potential Suspension or Expulsion Cases.

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

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

5. Procedures

Definitions

- “Advisor” means either an attorney or non-attorney advocate who advises a student or student organization during conduct proceedings.
- “Appeals officer” means the individual appointed by an institution to consider appeals.
- “Fully participate” includes the opportunity to make opening and closing statements, to examine and cross-examine witnesses, and to provide the student or student organization with support, guidance, and advice.
- “Hearing officer” means the neutral individual designated by the College to conduct the disciplinary proceedings.
- “Registration/graduation hold” indicates that the student’s academic records will not be released until the allegations (including sanctions if applicable) are resolved.
- “Witness” refers to an individual who was present during the incident and/or has information to share directly related to the incident. Character witnesses are not allowed to participate in conduct hearings.

A detailed description of the procedures used by NDSCS to resolve student disciplinary issues is provided below. Cases related to Title IX compliance may require some modification of the resolution process, as approved by the NDSCS Title IX coordinator.

- All references to business days shall be defined as Monday through Friday (holidays and other closings excluded).
- Receipt of an incident report,
- Creation of a conduct file,
- Implementation of interim actions, if necessary,
- Investigation of incident, if necessary,
- Issue notice of alleged violations,
- Hearing, if requested by student
- Notification of findings, including sanctions, and terms and conditions, as assigned,
- Appeal (if student chooses),
- Notification of appeal decision (if applicable).

5.1 Reporting and Investigating Complaints

When provided information by law enforcement agencies, the College reserves the right to initiate action under this code when alleged violations of the code are believed to have occurred. Investigations are conducted to determine whether a student is responsible for alleged violations of the Code of Conduct. The goals and purpose of an investigation are:

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

5.2 Reporting Alleged Violations

Alleged violations should be reported as soon as possible following the discovery of alleged prohibited conduct and may be initiated by law enforcement, a member of the NDSCS community, or a third party.

Alleged violations can be reported through www.NDSCS.edu/Concern.

5.3 Investigations

Investigation means to gather the facts, details and circumstances associated with a complaint. The investigation may include interviewing witnesses, review of documents or other steps that will assist the hearing officer to determine whether charges are warranted. Dismissal of the complaint, an alternative resolution (e.g. developmental conversation with a trained employee), or charges may result following an investigation.

The College may independently investigate an allegation of student misconduct, and may also initiate an investigation at the request of any member of the NDSCS community or affected party. Student and Residential Life conduct officers and other designated College personnel are authorized to investigate alleged violations of the Code of Conduct.

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

5.4 Interim Measures

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

5.5 Right to Enter and Search

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

- Regular health and safety inspections of all residential spaces;
- The student consents to a search;
- College representatives fear an imminent danger to health, safety, life or property;
- College representatives fear imminent destruction of evidence relevant to a suspected violation of College policies.

The College requires that College representatives notify the Executive Director for Student and Residential Life and/or designee of entry and/or searches. The College will not intervene between students and searches authorized under law by any law enforcement agencies.

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

5.6 Notice of Possible Violation(s)

Within a reasonable number of business days (generally 10) of receipt of the complaint, a written notice will be sent via College email (recognized as an official means of communication) to the identified student(s) outlining the following (when known):

- Nature of the possible code violation(s);
- Date, time and place of the possible code violation(s);
- Maximum sanction applicable if found in violation of the Code of Conduct;
- Opportunity to request a hearing on the matter.

Notice that a decision may be made in the students' absence based on the information currently available. The Code of Conduct is available at www.NDSCS.edu/Student-Rights.

The College will provide the student oral or written notification of the hearing at least three business days prior to the hearing date. Students may consent to a shorter notice period, if they chose.

5.7 Accommodations

If a student has a disability that necessitates an accommodation or assistance during the conduct process, they may request the accommodation by emailing NDSCS.Accessibility@ndscs.edu or calling 701-671-2623. In order to provide the needed accommodation, students must request the accommodation in advance of any scheduled conduct meeting/hearings.

5.8 Prehearing Conference

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

- Student's rights and responsibilities and
- Nature of the possible violation and how the Code of Student Conduct may have been violated
- Process for resolution of the possible violation(s)

The student may request to proceed with an immediate hearing, except in cases which may result in suspension or expulsion (see Section 6). The hearing officer may refuse to hear the case and refer it to another hearing officer.

5.9 Student Advisory Options

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

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

5.10 Conduct Hearings for Non-Suspension/Expulsion Cases

The Code of Conduct resolution process is facilitated through an administrative hearing. An administrative hearing involves the implicated student, hearing officer and any other individuals necessary to determine whether or not there has been a violation of College policy(s). The hearing officer is the NDSCS representative assigned to process a possible violation of College policies. At this hearing, the student has a right to make a written and/or oral statement describing the event(s) that led to the complaint.

In all cases involving an allegation of sexual misconduct, the implicated student and the alleged victim shall have equal procedural rights as detailed in the NDSCS Sexual Misconduct and Title IX Compliance Policy available at www.NDSCS.edu/Title9.

The hearing officer will provide written notice of the findings to the student stating whether or not the Code of Conduct was violated. The written notice will include sanctions and/or conditions for continued enrollment or re-enrollment, if any. The notice will generally be provided within 10 business days following the hearing. The Executive Director for Student and Residential Life or designee may grant time extensions, if necessary.

5.11 Default Proceedings and Unresolved Violations

When a student fails to appear for a scheduled hearing without advance notice, or leaves the College with unresolved violations, the hearing officer may make a decision in the student's absence, provided the student was issued adequate written notice of the date, time and place of the scheduled hearing via the NDSCS email system.

In lieu of making such a decision, the hearing officer may reserve the option to place a registration/graduation hold on the student's records and archive the case until such time the student re-registers or the hearing officer chooses to hold a hearing on the pending matter.

5.12 Conflicts of Interest

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

5.13 Burden of Proof

The burden of proof will rest upon the hearing officer.

5.14 Standard of Proof

The standard of proof will be a preponderance of evidence, indicating that it is “more likely than not” that a violation occurred. A student is found to have violated this code when the student:

- Admits to the violation or
- Information available at the time of the hearing supports a finding of responsibility.

5.15 Witnesses/Witness Statements

The implicated student and the hearing officer will be given reasonable opportunity to present witnesses and/or witness statements and will be allowed to address questions to any witnesses participating in the hearing. An absolute right of direct cross-examination is not granted under this code. All questions will be addressed through the hearing officer, who will determine if the questions are relevant and reasonable, and if necessary, will exclude questions that are redundant or irrelevant in determining responsibility. Witnesses will be given reasonable latitude to respond fully to questions and will only remain for the duration of their own testimonies. All written statements that are to be considered are to be provided at least two business days prior to the hearing. Written statements must be signed and dated, with the name of the witness printed below to ensure legibility or sent electronically directly by the witness.

Character witnesses are not permitted. If the implicated student is found responsible for violating this code, character statements may be considered during sanctioning. The implicated student may submit up to three character reference letters to the hearing officer, at least two business days prior to the hearing. Each character reference letter must be dated and signed, with the name of the individual signing printed below to ensure legibility or sent electronically from the author of the written statement.

5.16 Evidence

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

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

5.17 Closed Hearings

All hearings are generally closed except to those individuals who are part of the proceedings, unless otherwise arranged by prior mutual written agreement between the implicated student and the hearing officer. The hearing officer may permit a limited number of NDSCS personnel to be present as observers for the purpose of training or observation. Other exceptions may also be made as deemed necessary by the Executive Director for Student and Residential Life or designee.

5.18 Appeals

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

6. Hearing Procedures for Potential Suspension or Expulsion Cases

6.1 Introduction

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

When a case has potential to result in suspension or expulsion, the hearing may be audio or video recorded and retained as part of the student’s file. Notice will be provided to the student no less than three business days before the hearing. If

recorded, access to the recording will be made available for the purpose of preparing an appeal. Requests for access should be directed to the Executive Director for Student and Residential life.

The hearing officer will describe the general outline of the hearing. If a student is represented by an advisor, that individual has the ability to fully participate in the hearing as indicated in section 5.9. In cases that could result in suspension or expulsion, advisors may fully participate, which means they may make opening and closing statements, examine and cross-examine (through the hearing officer) witnesses present during the hearing, and provide the student with support, guidance and advice throughout the process.

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

6.2 Complaint and Response

A representative(s) for the College will introduce the case.

The implicated student (and/or advisor) will be permitted to respond to the charges and present information that is relevant in determining whether the student violated one or more sections of the code.

6.3 Presentation of Witnesses

A representative(s) for the College and the implicated student will be allowed to present witnesses who may be asked questions by the hearing officer, implicated student (and/or advisor). All questions will be directed to the hearing officer who will determine relevancy to the proceeding, request clarification if necessary, ask if the respondent understands the question and request a response. Character witnesses are not permitted.

6.4 Final Questions

A representative(s) for the College and the implicated student (and/or advisor) will be permitted to ask questions of each other.

6.5 Closing Statements

A representative for the college and the implicated student (and/or advisor) will have an opportunity for a closing statement.

6.6 Deliberation and Decision

The hearing officer will provide written notice of findings to the student stating whether or not the Code of Conduct was violated. The written notice will include sanctions and terms and conditions for continued enrollment or re-enrollment, if any. The notice will generally be provided within 10 days following the hearing.

7. Sanctions and Conditions

All sanctions/conditions issued to students are decided based on A sanction is a consequence placed upon any student for violations of specified College policies. Sanctions help define the student's relationship with the College in the context of current and potential future conduct, including a notice that further violations may lead to more severe conduct sanctions.

If a student is found not responsible for the alleged code violation(s), no action will be taken against the implicated student; however, having been through the Code process, the student is considered knowledgeable regarding the Code's provisions and expectations, and that knowledge may be taken into consideration in the event of future Code actions. Written decisions are generally rendered within 10 business days from the date of the hearing.

In cases in which the student is found responsible for violating one or more policies, a sanction may be imposed. Sanctions may not include suspension or expulsion unless the student receives prior written notice that the case was serious enough to warrant suspension or expulsion. The appropriate sanction(s) will be assigned based on the severity of the incident and/or past conduct history; possible sanctions include any of the following (some cases may result in multiple sanctions from this list).

- Verbal warning/developmental conduct conversation;
- College service;
- Restitution and/or fines;
- Written warning;
- Conduct agreement;

- Conduct probation;
- Supervised conduct probation;
- Termination of license contract for College housing;
- Exclusion from all, or portions, of the College community;
- Conduct suspension; and/or
- Expulsion

With each sanction, conditions and/or restorative actions may be assigned. In addition, notification may be given to other College representatives as necessary. Condition/restorative actions include, but are not limited to:

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

In assigning a sanction and/or conditions for inappropriate student conduct, the hearing officer will consider:

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

7.1 Sanctions

7.1.1 Written Warning

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

7.1.2 Conduct Probation

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

7.1.3 Supervised Conduct Probation

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

7.1.4 Conduct Suspension

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

- A student may not re-enroll during the period of conduct suspension.
- The student's eligibility for any refund of tuition/fees will be subject to the College's normal withdrawal policy.

- A withdrawal or drop of remaining credits will be effective date of suspension.
- A student who has been suspended must vacate residence life facilities within the time frame established in the written notice of the conduct suspension. Termination of a license contract due to conduct will result in the loss of room rent for the remainder of the semester.
- In addition to being ineligible for enrollment, a student is also ineligible for student employment with NDSCS.
- There may be other restrictions placed on the suspended student including, but not limited to, restricted access to the entire College community, specified facilities, or portions of specified facilities. The student also may be required to obtain prior written permission from the Executive Director for Student and Residential Life before being on any portion of the NDSCS community during the period of suspension. Approval is generally granted only to permit a student to conduct business related to the College.
- Conduct suspension is a matter of permanent record. A permanent record indicates that student conduct files may be retained indefinitely at the discretion of the Executive Director for Student and Residential Life, but not less than seven (7) years.

7.1.5 Expulsion

Expulsion is a written notification that the student is permanently ineligible to return to the College.

A withdrawal or drop of remaining credits will be effective date of suspension.

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

Written requests for exceptions to restrictions may be directed to the Executive Director for Student and Residential Life.

7.2 Conditions

7.2.1 Alcohol and Other Drug Programming, Evaluation, and/or Testing

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

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

7.2.2 Written Assignments

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

7.2.3 Participation in a Specific Activity or Project

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

7.2.4 Restricted Access

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

7.2.5 Loss of Privileges

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

- Participating in or attending events sponsored by the College or by students;
- Holding office in recognized student clubs or organizations;
- Receiving or being a guest in Residential Life facilities;

- Access to parts of or all College property, including eligibility to reside in College facilities;
- Receiving financial aid;
- Being employed by the College;
- Representing the College, including travel on behalf of the College; and
- Using IT services.

7.2.6 No Contact Order

Students may be prohibited from direct or indirect physical and/or verbal contact with another individual or group. Reasonable restrictions to protect the safety and welfare of others may also be imposed. These include, but are not limited to, any and all forms of communication, access to College owned or controlled locations, and specified minimum distances.

7.2.7 Restitution

A student may be required to repair, pay the cost for repair or pay for cost of replacement of any College or state property damaged or lost by the student. In each case, the goal will be to return the damaged property to its existing condition at the time of damage. The determination of the method used to calculate restitution shall be the responsibility of the hearing officer, taking into consideration the fair market value or cost to repair the damaged item(s). In the case of personal injury, the responsible party may be required to cover the cost of medical care for others harmed as a result of the student's actions.

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

7.2.8 Confiscation

In addition to items seized as evidence, goods used or possessed in violation of College policies and/or local, state or federal laws, may be confiscated and not be returned to the student. This includes, but not limited to, falsified information or identification.

8. Appeal Procedures

Students sanctioned for violations of this code may appeal the finding made by the hearing officer. Cases resulting in suspension or expulsion are appealed to the Vice President for Student Affairs. All other appeals are heard by an appeal officer which is typically the Executive Director for Student and Residential Life, or an administrator of residential life, depending upon who served as the hearing officer. If the initial case was heard by the Executive Director for Student and Residential Life, the appeal will be heard by the Vice President of Student Affairs.

8.1 Deadline for Appeals

An appeal of any conduct process decision must be made in writing within five business days following the date the sanction notice is sent to the student via the NDSCS email account. When necessary to utilize the U.S. mail, students will be afforded 10 business days from the date of letter to submit an appeal. If hand-delivered, a notation of that date will be made in the student's conduct file. In extraordinary circumstances, the Executive Director for Student and Residential life may grant time extensions. The College reserves the right, however, to reduce the time allowed for a student appeal in cases that may have the potential to result in harm to individuals and/or property. The reduced time for appeal will be specified in the decision letter along with the rationale for allowing reduced time for an appeal. The appeal must be written by the student and shall contain the student's name, date of the decision or action, and reason(s) for the appeal.

8.2 Appeal Letters

Appeals must specify in detail one or more of the following basis of appeal:

- New or contradictory evidence exists that was not available at the time of the original decision, and/or
- Student's due process rights were violated. The rights believed to be violated must be specified.

8.3 Emergency Provisions

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

8.4 Review

The appeal officer or the will review the written letter of appeal from the student and materials from the original hearing. In reviewing the appropriateness of sanctions, the student's entire conduct file may be considered. After reviewing these materials, the appeal officer may decide to do one of the following:

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

8.5 Decision/Sanction

When the implicated student makes the appeal, the appeal officer or may uphold or lessen the original decision/sanction, but not increase the sanctions/action imposed by the hearing officer. The decision on the appeal will generally be made within 10 business days of receipt of the appeal, but may take longer during College recesses or in the event of complex cases.

8.6 Appeals by Accuser

An appeal by the accuser may only be allowed when it is alleged that the accuser was the subject of a Title IX violation, including sexual assaults, as defined in this code. In some cases, an accuser's appeal could result in a different decision and/or stronger sanctions that originally imposed.

8.7 Rehearing Requests for Cases Resulting in Suspension or Expulsion

Any student who is suspended or expelled has the right to request a reconsideration of the case based on new or contradictory evidence that was not available at the time of the original decision, and/or evidence that the student was not afforded due process as outlined in this Code. A request for reconsideration of the case should be submitted to the Executive Director for Student and Residential Life.

8.8 Appeal of Cases Resulting in Suspension or Expulsion

Upon request, the student may appeal the finding of the hearing officer to the Vice President of Student Affairs.

The Vice President shall review the record made by the hearing officer and make a decision based upon that record. However, the vice president may, in his or her sole discretion, receive additional testimony or other evidence and make that additional evidence a part of the record. The student shall be informed of the vice president's action in person or over the phone and in writing.

9. Special Circumstances and Conditions

9.1 Registration/Graduation Hold

- If a student (new, current or returning) fails to respond to a request to meet to discuss an alleged violation of this code, or fails to comply with sanctions or terms and conditions assigned as a result of being found responsible for a violation of this code, a hold may be placed on the student's eligibility to register.
- Students may not be permitted to graduate or officially withdraw from NDSCS while disciplinary action is pending. If the student withdraws before NDSCS becomes aware of the potential violation of this code, the student's academic records may be placed on registration/graduation hold and the allegations must be resolved prior to removal of the registration/graduation hold.

9.2 Temporary Suspension

A student may be temporarily suspended, by the Executive Director for Student and Residential Life, pending a hearing when the student's actions or threats of action indicated a serious threat to the welfare and/or safety of individuals or property. No hearing will be required before a temporary suspension is imposed; however, one will be convened within five business days following the suspension. Under unique circumstances, alterations to this timeline will be made at the discretion of the Executive Director for Student and Residential Life. If the suspension is upheld following the hearing, the suspension remains subject to the rules outlined in Conduct Suspension (Section 7.1) and remains a matter of permanent record.

9.3 Conditions Under Which Temporary Suspension May Be Imposed:

- To ensure the health, safety or well-being of members of the College community;
- To preserve College property;
- To ensure the suspended student's own physical and emotional safety and well-being, or
- To ensure against the disruption of, or interference with, the normal operations of the College.

9.4 Administrative Withdrawal for Mental Health Reasons

A student may be subject to administrative withdrawal if it is determined that the student:

- Poses a significant danger of causing imminent harm to the student or others, or
- Directly and substantially impedes the lawful activities of other members of the College community.

Administrative withdrawal does not take the place of disciplinary action associated with a student's behavior that is in violation of the Student Code of Conduct.

Consideration will be given first to use of normal conduct processes of counseling, voluntary withdrawal, use of state commitment laws (NDCC 25.03.1), or use of other alternatives whenever appropriate.

9.5 Conduct Violations

A student implicated of violating this code may not be subject to the conduct process if the student:

- Lacks the capacity to respond to pending conduct charges, or
- Lacks the capacity to know the nature or wrongfulness of the conduct at the time of the offense.

If it is determined the student does not meet the criteria mentioned above, the case will be returned to the conduct process.

Students subject to conduct charges who wish to introduce relevant evidence of any incapacity must inform the Executive Director for Student and Residential Life in writing at least two business days prior to any conduct hearing. The Executive Director for Student and Residential Life may elect to appoint a designee to act in administering this policy. If the Executive Director for Student and

Residential Life determines that the evidence may have merit, the case will then be resolved in accordance with the criteria outlined below:

9.6 Evaluation Referral

The Executive Director for Student and Residential Life may refer a student for an evaluation by an independent, licensed psychiatrist or psychologist chosen by the institution if the Executive Director for Student and Residential Life reasonably believes the student may meet the criteria in Section 9.4, or if a student subject to conduct charges wants to introduce relevant evidence of any mental disorder. A student referred for evaluation will be informed in writing by NDSCS email and the evaluation must be scheduled no later than five days from the date of the referral letter. The evaluation will be at the student's expense. If a student fails to complete an independent evaluation, he or she may be subject to the conduct process or an immediate interim withdrawal.

9.7 Interim Withdrawal

As stated above, an interim withdrawal may be implemented if a student fails to complete an evaluation with a licensed psychologist or psychiatrist. Also, an interim withdrawal may be undertaken immediately if the Executive Director for Student and Residential Life determines a student's conduct poses an imminent danger.

A student subject to interim withdrawal shall be given written notice and may be assisted throughout this process by an individual of his or her choice. The student, whether or not an evaluation has been completed, shall be given the opportunity to appear personally before the Executive Director for Student and Residential Life within 72 hours of the effective date of the interim withdrawal to review:

- Reliability of the information concerning the student's conduct, and
- Whether the student's conduct poses an imminent danger.

During an interim withdrawal, the Executive Director for Student and Residential Life may place restrictions including, but not limited to, class attendance and use of College services and facilities.

9.8 Involuntary Withdrawal

A student under consideration for involuntary withdrawal will be accorded an informal conference with the Executive Director for Student and Residential Life or designee. The informal conference will be held within seven business days after an evaluation by a licensed psychologist or psychiatrist has been completed. Prior to the informal conference, the Executive Director for Student and Residential Life and the student will have an opportunity to review, independently, the psychological or psychiatric evaluation.

The Executive Director for Student and Residential Life conducts informal conference proceedings. An individual of his or her choice may assist the student in the informal conference. The student will remain withdrawn on an interim basis pending completion of the informal conference.

A written decision shall be rendered by the Executive Director for Student and Residential Life containing a statement of reasons for any determination leading to involuntary withdrawal. The student also should be advised as to when a petition for reinstatement would be considered, along with any conditions for reinstatement. The student may appeal the decision to the vice president for student affairs.

9.9 Negotiated Withdrawal

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

9.10 Interim Actions

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

9.11 Crimes of Violence

The term "crime of violence" means:

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

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

In cases of crimes of violence, the Executive Director for Student and Residential Life may increase, but not decrease, timelines stated in the code and may determine by whom the case is heard.

9.12 Notification of Hearing Outcomes for Crimes of Violence

Individuals who are victims of crimes of violence have a right to be notified of the outcome of complaint resolution processes, upon written request to the Executive Director for Student and Residential Life. If the victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim.

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

9.13 Incarcerated Students

In cases involving incarceration, a hearing will be held when the student is available for a hearing.

10. Conduct Records

10.1 Disclosure

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

The conduct record shall be separate from the student's academic record, but shall be considered a part of the student's educational record. All conduct records shall be retained in the office of the Executive Director for Student and Residential Life or other offices as authorized by the Executive Director.

As provided under FERPA, information concerning code violations for alcohol and/or drugs may be shared with parents in accordance with the Parental Notification Policy.

10.2 Retention and Destruction

Sanctions Less than Suspension or Expulsion

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

Suspension or Expulsion

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

FINAL NOTE: Occasionally there may be a need to update certain details such as changes to staff titles, office locations, etc. that are mentioned in this document. Updates will be made to the online version of this document on an ongoing basis.

John Richman, President
Effective 08/06/2019