

# STUDENT RIGHTS & RESPONSIBILITIES

## A CODE OF CONDUCT 2020-2021

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

Contents of this code may be subject to change. Changes made will be communicated to students through the official College email or website at [www.NDSCS.edu/Students-Rights](http://www.NDSCS.edu/Students-Rights). An attempt has been made to reference local, state or federal laws that complement College policies and procedures.

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 effect 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 the official NDSCS concern form at [www.NDSCS.edu/Concern](http://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, Old Main, 110A (Wahpeton) by calling 701.671.2541 or by appointment in Fargo, 701.671.2541 or at [NDSCS.StudentAdvocate@ndscs.edu](mailto: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 Grievance Procedures

A complaint or grievance exists when an enrolled student is dissatisfied with a decision or an aspect of their 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 student is not satisfied, or is unwilling to address the issue at the individual

or departmental level, the student 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 student 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 (e.g. through official College e-mail or written statement). The grievance shall be submitted within five working 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 working 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 student is not satisfied with the resolution or decision, a written appeal may be submitted to the Vice President for Academic Affairs ([Harvey.Link@ndscs.edu](mailto:Harvey.Link@ndscs.edu) or delivered to Haverty Hall 123) within five working 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 working 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 their 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 their 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 designee shall, if possible, orally communicate the committee's decision to the student followed by a written decision within two working days. The decision of the Student Academic Grievance Committee is final.

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

All students have the right to present grievances in accordance with 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](http://www.NDSCS.edu/Concern) or students may contact the NDSCS Student Advocate at 701-671-2541 or [NDSCS.StudentAdvocate@ndscs.edu](mailto:NDSCS.StudentAdvocate@ndscs.edu). For more information visit [www.NDSCS.edu/Diversity](http://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) and public health orders.

### **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 with students 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 athletes under the Student Athlete Code of Conduct
- Student leaders within student organizations
- Personnel actions with student employees

- Academic actions under academic programs' professional standards
- Criminal charges or civil suits

Actions under this code are educational (administrative) as are other actions taken under 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](mailto: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 his or her 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
- Immediately 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](http://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 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, or 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 cannabis, 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](http://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 a student causes a disturbance or endangers, or may endanger, the safety of others, property or themselves.

### **3.7 Advertising Related to Alcohol**

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

### **3.8 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:

- **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.
- **STAY** with the individual until help arrives and you have been told your assistance is no longer needed.
- **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.

### **3.9 Tobacco and e-Cigarettes/Vaping devices**

The use of tobacco and use of e-Cigarette/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-Cigarette/vaping devices is prohibited inside all residential facilities.

For more information and to view the full NDSCS Alcohol and Other Drug Policy, visit [www.NDSCS.edu/Alcoholinfo](http://www.NDSCS.edu/Alcoholinfo).

### **3.10 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 all 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.

### **3.11 Use of NDSCS's Name or Trademarks**

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

### **3.12 Computer-Related Conduct**

Please see NDUS policy 1901.2, Computing Facilities <https://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](mailto: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.

### **3.13 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.

### **3.14 Financial Aid Misuse**

Misuse of financial aid through fraud or abuse is prohibited.

### **3.15 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.

### **3.16 Failure to Comply**

Failure to comply with the instructions or directions of any 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.

### **3.17 Identification**

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

### **3.18 Bribery**

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

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

### **3.19 Arson**

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

### **3.20 Burglary**

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

### **3.21 Robbery**

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

### **3.22 Motor Vehicle Theft**

The theft or attempted theft of a motor vehicle is prohibited.

### **3.23 Theft of Property**

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

### **3.24 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, the unauthorized use of College parking, dining, and/or print services.

### **3.25 Possession of Stolen Property**

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

### **3.26 Vandalism**

The intentional destruction or defacement of property belonging to another individual, the College, or any other entity 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.

### **3.27 Trespassing**

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

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

Unauthorized sales, solicitations, and/or distribution of leaflets, signs, or posters in residential facilities are prohibited. Authorization may be sought through Student Life.

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

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

- Any College facility or portion thereof that has been reserved, restricted in use, or placed off limits;
- Any College facility after closing hours;
- Entry, use, or occupancy to spaces which students are not permitted, such as spaces limited by virtue of enrollment, employment, class schedule, and/or gender in facilities restricted by gender;
- All building roofs, fire escapes, steam tunnels, elevator shafts, equipment storage, mechanical rooms, and construction sites;
- Duplication, manufacture, possession, loaning or use of any key/card access or unlocking device for use on College facilities, locks or other property on College premises without proper authorization; and
- Entering a residential facility without being escorted by a resident or failure to escort non-residents.

### **3.30 Intimidation**

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

### **3.31 Unwanted Physical Contact**

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

### **3.32 Physical Assault**

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

### **3.33 Instigation/Provocation**

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

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

Conduct that intentionally or recklessly creates a risk of public inconvenience, annoyance, or alarm without proper authority is prohibited. Examples include, but are not limited to, participating in or hosting noisy or loud parties/gatherings or other public disturbances on on off campus, making unreasonable noise, fighting, engaging in violent behavior, obstructing vehicular or pedestrian traffic, disturbing a lawful assembly, and streaking.

### **3.35 Discrimination, Harassment and Retaliation**

NDSCS is fully committed to providing a safe and non-discriminatory learning, living, and working environment for all members of its College community. For complete information regarding discrimination, harassment and retaliation please



see NDSCS Policy 601.01 Equal Opportunity Policy and Non Discrimination Statement and NDSCS Policy 604.16 Sexual Misconduct and Title IX Compliance Policy.

Students are encouraged to report incidents or information related to discrimination, harassment, and retaliation as soon as possible. Students may report concerns, issues and complaints at [www.NDSCS.edu/Concern](http://www.NDSCS.edu/Concern) or by contacting the NDSCS Student Advocate at 701.671.2541 or [NDSCS.StudentAdvocate@ndscs.edu](mailto:NDSCS.StudentAdvocate@ndscs.edu).

Any NDSCS employee who becomes aware of a potential violation of NDSCS Policy 601.01 involving students shall report the complaint or policy violation (see Report Form).

### **3.36 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 604.16 – 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, sexual misconduct, and Title IX as soon as possible.

Any NDSCS employee who becomes aware of a potential violation of NDSCS Policy 604.16 involving students shall report the complaint or policy violation (see Report Form).

### **3.37 Other Acts of Harassment**

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

### **3.38 Stalking**

Stalking is prohibited. Stalking is a pattern of repeated and unwanted attention, harassment, contact or any other course of conduct that would cause a reasonable person to feel fear for the safety of self or others or to suffer substantial emotional distress. See Policy 604.16.

### **3.39 Offensive, Lewd or Obscene Conduct**

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

### **3.40 Endangerment of Individuals**

Endangerment of individuals is prohibited. Endangerment includes actions/behaviors that either intentionally or unintentionally create a safety risk for self or others. Examples include:

- Willful failure to comply with orders issued by any emergency personnel during any real or perceived emergency condition or willful failure to follow safety standards;
- Willful failure to comply with any municipal, county, state or federal laws, executive orders, public health orders/guidelines, or NDSCS procedures resulting in an adverse impact or the potential of an adverse impact on the health and wellbeing of the College community;
- Tampering with any fire protection sign or device or any other emergency equipment, elevator controls, elevator shaft access, and/or other elevator equipment; and
- Creating a risk of bodily harm or creating the impression of risk of bodily harm to others.

### **3.41 Weapons/Firearms/Explosives**

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

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.**

- 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 device designed to deliver an electric shock.
- Explosives include, but are not limited to, bombs, fireworks, live or spent 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, and daggers, knives, sabers, swords, and bows and arrows. Any object may be considered a weapon when used to inflict or threaten infliction of bodily injury or property damage. 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 students 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. For authorization, contact the NDSCS Police Department at 701.671.2233.

NDSCS Police provides storage space for on-campus residents to store sporting arms, such as those used for hunting and other shooting sports. An officer must be present for check-in/check-out. Contact the NDSCS Police Department at 701.671.2233 to make arrangements for weapons storage.

### **3.42 Sporting Activity Restrictions**

Wrestling, horse play and the use of RC cars, drones, skateboards, hover boards, scooters, in-line skates, roller skates, and bicycles are prohibited inside all College facilities. Use of water guns, water balloons, projectile launchers, and use/throwing of flying discs, balls or other objects also are prohibited indoors, except when authorized. For guidance, contact the NDSCS Police Department at 701.671.2233.

## **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 meet one or more of the following criteria:

- 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 5. Procedures and Part 6. 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.

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

## **5. Procedures**

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

The Code resolution process generally includes the following steps:

- Receipt of an incident report;
- Creation of a conduct file,

- Investigation of incident, if necessary;
- Implementation of interim or remedial measures, if necessary,
- Notice of alleged violations,
- Pre-hearing conference;
- Administrative hearing;
- Notice of decision;
- Right of appeal; and
- Notice of appeal decision.

This process is designed to:

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

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

## **5.2 Reporting Alleged Violations**

Alleged Code violations should be reported as soon as possible following the discovery of alleged prohibited conduct. Reports may be initiated by law enforcement, any member of the NDSCS community, or other interested parties. An alleged violation should be reported through [www.NDSCS.edu/Concern](http://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 notice of alleged violation(s) 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 individual believed to have information relevant to an investigation may also be contacted and requested to make an appointment to discuss the matter.

## **5.4 Interim or Remedial Measures**

In the interest of safety and security, upon receipt of notice, interim or remedial measures may be implemented prior to a completed investigation or conduct hearing. Specific actions will be based on the circumstances of the allegations and may include, but are not limited to, no contact orders, housing/workplace changes, loss of privileges, and/or restricted access to campus.

## **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;
- 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 College 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 Alleged Violation(s)**

A written notice will be sent via College email (recognized as an official means of communication) to the responding student to arrange a prehearing conference.

The notice will include:

- Nature of the alleged violation(s);
- Date, time and place of the alleged violation(s);
- Maximum sanction applicable if found in violation of the Code of Student Conduct;
- The student's right to be represented by an attorney or non-attorney advocate; and
- Notice that a decision may be made in the students' absence based on the information currently available.

The College will provide the student oral or written notification of the hearing at least three working days prior to the hearing date. Students may choose to consent to a shorter notice period.

## **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](mailto: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 Student Advisor Options**

Students have the right to have an individual present who may act in an advisory capacity. Hearing advisors may not serve as witnesses. Students may contact the NDSCS Student Advocate for assistance in identifying an appropriate individual.

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

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

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

## **5.9 Prehearing Conference**

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

- Student's rights and responsibilities and
- Nature of the complaint and how the Code of Student Conduct may have been violated.

## **Process for resolution of alleged violations**

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

## 5.10 Conduct Hearings

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

In all cases involving an allegation of discrimination, harassment, retaliation or sexual misconduct, both the complainant and respondent shall have equal procedural rights as detailed in the NDSCS Sexual Misconduct and Title IX Compliance Policy available at [www.NDSCS.edu/Title9](http://www.NDSCS.edu/Title9).

### Non-Suspension/Expulsion Conduct Hearings

A non-suspension/expulsion conduct hearing is an administrative hearing that generally involves only the responding student and the hearing officer. The hearing officer is the individual appointed by the College to process an alleged violation of College policy. Following the hearing, all applicable parties will receive a written notice of decision within 10 working days.

### Suspension/Expulsion Conduct Hearings

A suspension/expulsion conduct hearing is an administrative hearing that involves the responding student, hearing officer, and any other individual(s) appropriate to the process. The hearing officer is the individual appointed by the College to process an alleged violation of College policy. Following the hearing, all applicable parties will receive a written notice of decision within 10 working days.

## 5.11 Default Proceedings and Unresolved Charges

When a student fails to appear for a scheduled hearing without advance notice, or leaves the College with unresolved alleged 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 certain cases, a registration hold may be placed on the student's records and the case will be archived until such time the student requests reactivation or a resolution of the pending matter.

## 5.12 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 or designee at least three working days prior to the hearing. If a party fails to raise a perceived conflict by objecting to that person three working 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 Standard of Proof

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

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

## 5.14 Witnesses/Witness Statements

Prior to the hearing, names of witnesses being called to the hearing must be submitted to the Residential Life Office, Riley 130, by a deadline set during the prehearing conference. All parties will be given reasonable opportunity to present witnesses and/or witness statement and will be allowed to address questions to any witness participating in the hearing. All questions will be addressed through the hearing officer; however, the hearing officer may allow for direct questioning of non-party witnesses. Witnesses will be given reasonable latitude to respond fully to questions and will only remain for the duration of their own testimonies.

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

## **5.15 Evidence**

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

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

## **5.16 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 accused 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.

## **5.17 Appeals**

Students sanctioned for violations of any part of this Code of Conduct or relevant College policies may appeal. Reporting (if applicable) and responding students 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. The hearing officer will describe the general outline of the hearing and read the following honesty statement:

### **Honesty Statement**

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

If a student is represented by an attorney or non-attorney advocate, the representative has the ability to fully participate in the hearing as indicated in section 5.8, Student Advisor Options. Hearing advisors, attorneys, and/or non-attorney advocates will be required to sign a confidentiality statement pertaining to information about all parties involved in the hearing. The hearing officer will dismiss witnesses until they are called to speak.

## **6.2 Case Presentation and Response**

The hearing officer or designee will outline the process for presentation of the case. The responding and/or reporting parties will be permitted to respond to the alleged violations and present information that is relevant in determining whether the student violated one or more sections of the Code. The hearing officer is responsible for determining relevancy.

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

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

## **6.4 Closing Statements**

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

## 6.5 Notice of Decision

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

## 7. Sanctions and Conditions

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 disciplinary action will be taken against the responding student; however, having been through the Code process, the student is considered knowledgeable regarding the Code's provisions and expectations, and that knowledge may be taken into consideration in the event of future Code actions. Written decisions are generally rendered within 10 working days from the date of the hearing.

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

- Verbal warning/developmental conduct conversation,
- Written warning,
- College community service,
- Restitution and /or fines,
- Conduct probation
- Supervised conduct probation,
- Termination of license contract for College housing,
- Trespass or exclusion from all, or portions, of the College community,
- Conduct suspension, or
- Conduct expulsion

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

With each sanction, conditions and/or restorative actions may be assigned. In addition, notification may be given to other College officials as necessary. Conditions 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 factors including:

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

- The ability and/or willingness of the responding student to accept responsibility.

Any Code violation that is determined to have been motivated by bias based on a protected class may result in enhanced sanctions above those typically assigned for the same violations when not motivated by bias.

Repeated violations of this Code are relevant in determining a student's 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).

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

## **7.1 Sanctions**

### **Written Warning**

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

### **Conduct Probation**

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

### **Supervised Conduct Probation**

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

### **Conduct Suspension**

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

- A student may not re-enroll at NDSCS 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.
- The notice of conduct suspension will include the conditions for readmission that must be met prior to application for readmission. A meeting with the Executive Director for Student and Residential Life or designee may be required prior to acceptance of the student's application for readmission.
- 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.
- A student who has been suspended is restricted from NDSCS property during the specified period of suspension. The student will also be required to obtain prior written permission from the Executive Director for Student and Residential Life before being on NDSCS property during the period of suspension. Approval is generally granted only to permit a student to conduct business related to the College.
- Student organizations placed on suspension may have all rights and privileges revoked for the duration of their suspension. In order to regain all rights and privileges, the student organization is required to comply with and complete any and all sanctions and conditions.



## **Conduct Expulsion**

Expulsion is written notification that the student is permanently ineligible to return to the College. A withdrawal or drop of remaining credits will be effective date of expulsion.

Conduct suspension is a permanent conduct record, which means it may be retained indefinitely at the discretion of the Executive Director for Student and Residential Life, but not less than seven (7) years.

A student who has been expelled is restricted from NDSCS property indefinitely. Written requests for exceptions to this restriction may be directed to the Executive Director for Student and Residential Life or designee, however, approval is generally only granted for the purpose of conducting official College business.

## **7.2 Conditions**

### **Written Assignments**

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

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

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

### **Loss of Privileges**

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

### **No Contact Order**

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

### **Restitution**

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

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.

### **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 misconduct has been demonstrated by a student..

## **8. Appeal Procedures**

Students sanctioned for violations of this Code may make one appeal. Cases resulting in suspension or expulsion are appealed to the vice president for student affairs. All other appeals are heard by the executive eirector for student and residential life or designee, 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.

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

### **8.1 Deadline for Appeals**

An appeal of any conduct process decision must be made in writing within five working days following the date the sanction notice is provided to the student (via NDSCS email address). 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 be submitted using the designated appeal form. The documentation must specify one or more of the following bases of appeal:

- The severity of the sanction was not consistent with the severity of the offense,
- The finding of the Code having been violated was not substantiated by the evidence, and/or
- The student's due process rights as outlined in this Code were violated, which materially or substantially impacted the decision. Those rights believed to be violated must be specified.
- If applicable, a copy of of an appeal will be given to the other party who will have the opportunity to respond. Students will have no more than five working days to submit their response to the other party's appeal; however, the response cannot include an appeal if the time period for appeal has already expired. In cases that only involve a responding student, the appeal officer may not increase the sanctions/actions imposed by the hearing officer.

### **8.3 Emergency Provisions**

Normally a properly filed notice of appeal suspends the imposition of sanctions until the appeal is decided; however, some emergency provisions may be maintained throughout the appeal to protect 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 will review the written appeal documentation/response to appeal from the student(s) 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 more 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 parties,
- Recall one or more witnesses,
- Return the case to the hearing officer conducting the original hearing for presentation of new evidence and reconstruction of the decision and/or sanctions.

### **8.5 Decision/Sanction**

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

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

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

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

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

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

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 educational records may be placed on hold and the allegations must be resolved prior to removal of the hold.

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

If a student, during a period of non-enrollment, commits an act that violates this Code, a registration hold may be placed to prevent the student's registration until a hearing may be held on that matter. The student may be notified about the hold at the College is first notified about the incident, or notice may be provided when the student subsequently requests enrollment. In addition, a hearing officer, in consultation with the Executive Director for Student and Residential Life, may place a registration hold to deny a student the eligibility to register. Reasons may include the student's arrest or when criminal charges are pending against the student, serious concerns arise about the health or safety of the student or others in the College community.

### **9.3 Rehearing Requests for Case Resulting in Suspension or Expulsion**

Any student who is suspended or expelled has the right to request a reconsideration of the case based on new or contradictory evidence that was not available at the time of the original hearing, and/or evidence that the student was not afforded due process as outlined in this Code. A request for reconsideration of the case should be submitted to the Executive Director for Student and Residential Life. Information that may be considered may include police reports, transcripts of legal proceedings, and the outcome of any civil or criminal proceeding directly related to the appeal.

### **9.4 Temporary Emergency 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 indicate a serious threat to the welfare and/or safety of any individual or property. No hearing will be required before a temporary suspension is imposed; however, one will be convened within five working days following the suspension. In unique circumstances, any alteration to this timeline will be made at the discretion of the Executive Director for Student and Residential Life. If the suspension is upheld, the suspension remains subject to the rules outlined in Conduct Suspension (Section 7.1, Sanctions) and remains a matter of permanent conduct record.

### **9.5 Administrative Withdrawal**

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

Students wishing to return to the College may obtain information regarding reactivation from the NDSCS Admissions Office. A meeting with the Executive Director for Student and Residential Life or designee will be required prior to acceptance of the student's application for readmission.

### **9.6 Negotiated Withdrawal**

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

A student requesting readmission will be required to meet with the Executive Director for Student and Residential Life or designee prior to approval of the student's petition for readmission. The student must be academically eligible for readmission to NDSCS and may be required to pass a criminal background check at the student's expense prior to readmission.

## **9.7 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.

## **9.8 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 a substantial risk that physical force against and individual 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.

Individuals who are victims of crimes of violence have a right to be notified of the outcome of complaint resolution procedures, upon written request to the 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.

## **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 addition, Code violations may also be shared with some academic departments upon request and as necessary to fulfill their professional obligations. A procedure exists between Student Affairs and Athletics that provides for the full exchange of information concerning Code violations by student athletes with the pertinent athletic personnel and Athletic Director.

### **10.2 Retention and Destruction**

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

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

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

### **Suspension or Expulsion**

In cases in which a student is found in violation and receives a sanction of suspension, conduct records will be retained indefinitely at the discretion of the Executive Director for Student and Residential Life, but not less than seven years. In cases in which a student is found in violation and receives a sanction of expulsion, conduct records will be retained on a permanent basis.

## **Student Organization Records**

Records of conduct violations involving student organizations will be retained for seven years following the date of the incident. Student organization conduct records may be retained indefinitely at the discretion of the Executive Director for Student and Residential Life

**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 07/31/2020*