



SBHE Policies

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**NORTH DAKOTA
STATE BOARD OF HIGHER EDUCATION
Policy Manual**

Policy: 100.1 Constitutional and Statutory Authority

Effective: April 25, 2019

1. The North Dakota State Board of Higher Education (SBHE) was established by an initiated measure approved by the voters of North Dakota in 1938, which added Article 54 to the North Dakota Constitution. The relevant portion of the Constitution was subsequently amended by the people of North Dakota in 1964 (regarding the process of preparing and submitting institutional budgets), 1966 (regarding the budget of the agricultural experiment stations and the NDSU extension); 1972 (regarding the removal of the Ellendale Branch of UND), 1976 (regarding qualifications and appointment of members; compensation for members), 1994 (regarding the student member), 1996 (regarding length and number of terms of members, number of members from a single institution, and the composition of the nominating committee), and 2000 (regarding the number of members from a single institution). The constitutional authority of the SBHE is currently located in Article VIII, Section 6 of the North Dakota Constitution.
2. The statutory authority of the SBHE is set forth in Title 15 of the North Dakota Century Code, and certain specific powers and duties of the SBHE are largely contained within Chapter 15-10 of the Century Code.

References: N.D. Const. Art. VIII. § 6; S.L. 1963, ch. 452; S.L. 1965, ch. 473; S.L. 1971, ch. 623; S.L. 1973, ch. 526; S.L. 1975, ch. 612; S.L. 1993, ch. 664; S.L. 1995, ch. 647; S.L. 1999, ch. 568; N.D.C.C. ch. 15-10.

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Policy: 100.4 Mission and Vision of the State Board of Higher Education

Effective: July 22, 2021

1. Our Mission:
“To enhance economic growth, social vitality, and quality of life for North Dakota through the discovery, sharing, and application of knowledge.”
2. Our Vision:
“To lead the nation in educational attainment through access, innovation and excellence.”

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Policy: 100.5 Principles and Core Values of the State Board of Higher Education

Effective: July 22, 2021

1. The SBHE believes:

- a. The most valuable asset of any state is its human capital: educated and highly skilled citizens, employees, business owners, community leaders, and contributing members of society.
- b. A stable future for North Dakota is directly linked to and dependent upon its University System. Likewise, a stable future for the NDUS is linked to the economy of North Dakota.
- c. The NDUS, in collaboration with the elected and private sector leadership across the state, in North Dakota, can and should take positive steps to enhance and diversify the economy of North Dakota.
- d. Recruitment and retention of students who graduate from NDUS and move into the North Dakota workforce is a priority focus.
- e. The students, faculty, and staff are the foundation of the NDUS.
- f. Performance of the NDUS will be enhanced in an environment which is conducive to innovation, creativity, and flexibility – coupled with appropriate quality assurance and accountability.
- g. Our educational programs should provide access and inclusion to a widely diverse student population and prepare all students to succeed in an increasingly pluralistic society.
- h. The citizens and the legislature created and expect the NDUS to function as a system; i.e., to collaborate, whenever appropriate and feasible, in offering programs, serving students and citizens, and in providing administrative services.
- i. The benefits of the NDUS can and should be available and accessible to all of North Dakota residents.
- j. It is important for all the key stakeholders of the NDUS to adopt and apply the same set of expectations and accountability measures which are identified and agreed to in the SBHE Strategic Plan.

- k. Student success encompasses the whole student, to include discovery and academic performance, intervention strategies designed to support at-risk students, tele-health and mental health services, and timely progression toward completion and graduation.
2. Built on the vision that education serves as a keystone to strengthening the state's economy, improving the quality of life for its citizens, and building better futures for all, the SBHE and all personnel of the NDUS commit to the following core values:
- a. Excellence and Scholarship: We strive for excellence in all our pursuits. We are committed to innovation in the discovery, sharing and application of knowledge. We commit to continuous self-improvement to achieve excellence in all our endeavors.
 - b. Ethics and Dignity: We are committed to the highest standards of honesty, fairness, accountability, respect and professional and scholarly ethics. We value the dignity and worth of all people. We expect all of our conduct, in discussions and actions, to be based on integrity, mutual respect and civility, and that conduct is driven by the highest ethical standards. We are cognizant of the state's vast investments in the NDUS and remain stalwartly committed, responsible stewards of the state's investments.
 - c. Diversity: We value diversity of thought and of people and believing that diversity is a necessity to a vibrant learning community that pursues excellence in scholarship and research. We are committed to providing a university system that is trustworthy, supportive, safe and welcoming. We are committed to ensuring intercultural and international diversity in our curriculum and our people.
 - d. Student Success: We are committed to fostering the professional and personal growth of all students, staff and faculty by promoting lifelong learning and leadership development. These interests are the primary focus of our decisions and activities.
 - e. Collaboration and Public Engagement: We commit to working collegially and cooperatively in establishing productive partnerships with our colleagues in pre K – 12 education, higher education and all state agencies as well as corporate, nonprofit and public communities. Through these partnerships, we strive to improve education and the quality of life to ensure a better future for all.

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Policy: 100.6 Authority and Responsibility of the State Board of Higher Education, Chancellor and Institution Presidents

Effective: September 26, 2012

1. The SBHE was established by an initiated measure approved by the voters in 1938 (now Ar. VIII, § 6 of the North Dakota Constitution). Art. VIII, §6 states the SBHE “shall have the control and administration of” all of the state institutions established in the state constitution at that time and “such other state institutions of higher education as may hereafter be established.” Further, the SBHE “shall have full authority over the institutions under its control” and “full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions.” The SBHE shall appoint a commissioner of higher education as its “chief executive officer.” In 1990, the SBHE established a unified system of higher education, with its Commissioner/Chancellor as the system’s chief executive officer. Later, the state legislature enacted North Dakota Century Code § 15-10-01.2, which states:

The institutions of higher education under the control of the state board of higher education are a unified system of higher education, as established by the board, and are designated as the North Dakota university system.

2. Holding the NDUS in its trust, the SBHE:
 - a. Ensures the NDUS achieves the purposes of its mission and goals;
 - b. Ensures the NDUS is properly led and managed;
 - c. Maintains the quality of academic programs;
 - d. Provides responsible policies and procedures for proper governance;
 - e. Safeguards NDUS assets;
 - f. Honors the mission and integrity of each institution and its people;
 - g. Serves as a catalyst to create more efficient and effective programs and services through partnership and resource sharing;
 - h. Maintains student affordability;
 - i. Represents the institutions to the public and vice versa, assisting where appropriate in the understanding of each other’s needs;
 - j. Ensures effective stewardship of its financial, physical, and intellectual assets;
 - k. Achieves cost savings due to economies of scale, where appropriate;
 - l. Secures cooperative and planning advantages;
 - m. Shapes, supports, and achieves complementary institution missions;
 - n. Ensures excellence in programs, faculty, and students;
 - o. Minimizes unnecessary duplication through cooperative endeavors;
 - p. Gains public and legislative support for the NDUS through unified efforts; and
 - q. Shields institutions from direct political and other outside interference.

3. In fulfilling its mission and vision, the SBHE will govern the institutions in the NDUS in accordance with the North Dakota Constitution and state statutes and will be guided by the belief statements and core values adopted by the SBHE. The people of North Dakota created the SBHE through the North Dakota Constitution to ensure the institutions and their employees were protected from political interference. Recognizing the legitimacy and importance of such protection and believing each institution properly retains substantial responsibility for its own affairs, the SBHE and the NDUS honor the integrity of each institution and its people. The SBHE will provide the leadership and governing environment necessary to maximize the opportunities for the NDUS institutions to be successful in fulfilling their individual missions and enhancing the economic and social vitality of North Dakota.
4. The North Dakota Constitution provides the SBHE with broad powers and specifies the SBHE retains any powers it does not specifically delegate to the institutions. The SBHE has adopted the following guiding principles regarding the responsibility of the SBHE, as stewards of the NDUS, and the institutions.
 - a. SBHE approval for new or discontinued programs and organizational units ensures the overall pattern of service to the state is coherent and efficient.
 - b. SBHE review of institutional and program quality ensures the institutions provide positive educational experiences and seek continually to improve. Academic program quality and faculty quality determinations are made by faculty peers and institution administrators. The SBHE's responsibility is to support, provide oversight, and hold the institutions accountable for results.
 - c. SBHE budget guidelines and final approval of budget requests promote equity and appropriate investment of state resources throughout the NDUS.
 - d. SBHE priority-setting of facility requests promotes facilities funding on the basis of statewide need.
 - e. On matters that involve major costs for equipment or facilities which could be shared effectively among institutions, such as computing and telecommunications, the SBHE expects and will help facilitate such sharing.
 - f. The SBHE sets NDUS priorities regarding all requests of the legislature and executive branch. Those representing the institutions are not to undermine those priorities.
 - g. The SBHE is the appointing authority for institution presidents and has final authority concerning contract terms. The SBHE shall exercise this authority in consultation with the Chancellor and has delegated to the Chancellor authority to conduct searches and recommend a candidate and contract terms to the SBHE.
 - h. The SBHE delegates substantial authority and responsibility to each institution's president through the Chancellor, as defined in SBHE Policy 305.1, and holds each accountable for performance.
 - i. The SBHE shall have access to information about students, programs, faculty, staff, and finances of each institution to carry out its responsibilities.
 - j. The Chancellor shall alert the SBHE's attention any difficulties in the application of any of the above responsibilities that threaten to impede institutional effectiveness or efficiency. The SBHE is committed to free and fair inquiry and just resolution of such difficulties.

- k. General education courses and programs are central to the mission of all NDUS institutions and overlap among institutions is expected and necessary. However, the SBHE will continue to guard against unnecessary program duplication and collaborative delivery will be encouraged where the quality of the program can be maintained and the total cost of delivery can be reduced.
 - l. Professional, technical, vocational, and graduate courses and programs require institutional and SBHE judgments regarding their number and missions.
 - m. The SBHE retains authority for naming, professorship and endowed chairs, physical structures, and academic units including a college, school, department, center or institute and academic units including a college, school, department, center or institute.
- 5. Within the framework of the NDUS is a division of labor between the Chancellor and the services operating at each institution. In addition to a strong SBHE and Chancellor, achieving the advantages and purposes of a multi-institution NDUS require the energies, leadership, and talent of equally strong presidents who are dedicated to the mission and goals of their respective institution. While the principal role of the SBHE and Chancellor lie in policy, overall direction, and planning, the leadership demanded of the presidents is primarily focused on implementation and direct operational control. Generally, system-level services exist only when there is a strong rationale justifying cost efficiencies and unnecessary duplication of functions. These include academic policy, planning, and quality assessment; capital planning and construction; budgeting; human resources policy and compliance; institutional research; risk management; auditing; legal services; information technology systems and services shared among the institutions; and legislative and community relations.
- 6. The Chancellor is the chief executive officer of the SBHE and NDUS and exercises such powers as are necessary for SBHE and NDUS governance and functions. Chancellor duties and responsibilities are delegated in SBHE Policy 304.1 and other SBHE policies or directives.
- 7. A president is the chief executive officer of their respective institution and a member of the Chancellor's executive staff. The presidents report to and are responsible to the Chancellor. This designation includes the right and responsibility to manage the institution within the overall policies and directives issued by the Chancellor and SBHE. Presidents' duties and responsibilities are delegated in SBHE Policy 305.1 and other SBHE policies or SBHE or Chancellor directives.

References: N.D. Const. Art. VIII, § 6; N.D.C.C. § 15-10-01.2; SBHE Policies 304.1, 305.1.

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Policy: 100.7 Institution Mission Statements

Effective: April 25, 2019

1. The SBHE shall approve the individual mission/role/scope statements of the constituent institutions as published in their bulletins. Mission statements are expected to reflect higher learning commission requirements and, as appropriate, the strategic plan of the NDUS. Such statements must be submitted to the Chancellor's office for review and forwarded to the SBHE upon SBHE request. If an institution wishes to revise its mission, the SBHE will consider such a request.

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Policy: 102 Objectives and Codification

Effective: February 19, 1982

1. The SBHE discharges its constitutional responsibilities through policies adopted by the SBHE and administrative rules and regulations established at various levels.
2. To ensure that such policies are available to all interested parties, a policy manual has been established by the SBHE to incorporate appropriate legal and judicial provisions, and SBHE policies which are applicable to the entire NDUS, or portions of it, as well as to any other agencies which the legislature may place under the charge of the SBHE.
3. The manual has been developed in several major sections which roughly parallel major functional areas within an institution: governance and organization, academic affairs, student affairs, personnel, compensation, financial affairs, facilities, and information technology.
4. Each major section is divided into as many sections as are necessary to deal with the subject matter within a functional area. Sections are further divided into subsections, paragraphs, subparagraphs and clauses. The material in each subsection is organized as follows, but all seven items may not be present or used in each portion of the manual:
 - a. Constitutional and statutory authority;
 - b. Judicial interpretation and attorneys' general opinions;
 - c. SBHE policy
 - d. Definitions
 - e. Procedures
 - f. Forms; and
 - g. History.

The pagination of the manual has been devised to be as flexible as possible. It allows institution policies and procedures or other related materials to be inserted without disturbing the pagination, and it ensures a rather simple method for keeping the manual current. It is hoped this method would facilitate the usefulness of the manual.

An alphabetical index at the end assists in finding material which might not be readily classifiable.

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Policy: 301.1 Organization & Titles of Institutions Governed by the State Board of Higher Education

Effective: September 17, 2009

1. The colleges and universities governed by the SBHE are a unified system of higher education institutions and shall be collectively known and referred to as the North Dakota University System (NDUS).

2. The titles of the institutions and branches shall be as follows:

Bismarck State College (BSC)

Dickinson State University (DSU)

Lake Region State College (LRSC)

Mayville State University (MaSU)

Minot State University (MiSU)

Dakota College at Bottineau (DCB)

North Dakota State College of Science (NDSCS)

North Dakota State University (NDSU)

University of North Dakota (UND)

Valley City State University (VCSU)

Williston State College (WSC)

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Policy: 302.1 Academic and Student Affairs Committee

Effective: May 23, 2018

1. The SBHE establishes an academic and student affairs committee with responsibility for reviewing and recommending SBHE action, studies and reports related to academic and student matters, as well as strategic planning and workforce development, including:
 - a. All academic and student policies except those for which authority has been expressly delegated to the Chancellor;
 - b. Proposals for the establishment, allocation, and abolition of all educational units;
 - c. Approval and termination of all academic programs of study;
 - d. Academic standards;
 - e. Transfer and articulation;
 - f. Reports on program reviews and accreditation actions completed in the preceding year;
 - g. Proposals for honorary degrees; and
 - h. Other matters central to academic quality, student life, strategic planning and workforce development.
2. The academic and student affairs committee shall consist of three voting members of the SBHE, including the student member, and the Chancellor shall serve, ex officio, as a non-voting member of the committee. The SBHE president will appoint committee members as well as the committee chair by June 30th of each year to serve one-year terms starting July 1st. The SBHE president may also appoint additional members to serve, ex officio, as non-voting members of the committee. If a vacancy on the committee occurs before June 30th, the SBHE president shall appoint a voting member of the SBHE to fill the vacancy no later than the next regular meeting of the SBHE after the vacancy occurs.
3. The academic and student affairs committee shall set a meeting schedule for the year at the committee's first meeting after July 1st. Meetings shall comply with all applicable laws, including the necessary posting of notice, the preparation of agendas in advance of meetings, and the recording of minutes for each meeting.

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Policy: 302.2 Audit Committee

Effective: May 29, 2020

1. The SBHE shall establish an audit committee to fulfill its oversight responsibilities for the financial reporting process, the system of internal control, the audit process, and the NDUS process for monitoring compliance with laws, policies, regulations and the code of conduct. The audit committee has authority to conduct or authorize investigations into any matters within its scope of responsibility, including:
 - a. Appoint, compensate, and oversee the work of any registered public accounting firm employed by the organization;
 - b. Resolve any disagreements between management and the auditor regarding financial reporting;
 - c. Pre-approve all auditing and non-audit services;
 - d. Retain independent counsel and request appointment of legal counsel by the attorney general as a special assistant attorney general, accountants, or others to advise the audit committee or assist in the conduct of an investigation;
 - e. Seek any information it requires from employees, whom are directed to cooperate with the committee's requests, or external parties; and
 - f. Meet with officers, external auditors, or outside counsel, as necessary.
2. Non-compliance with any of the following, within a timely manner, will result in the audit committee recommending to the SBHE that the respective institution pay for the services of an audit by an external, independent firm, selected by the audit committee, the chief audit executive and the compliance officer, or increase the amount that is assessed by the NDUS to the institution for audit and compliance functions:
 - a. Any requests or requirements of any NDUS internal audit staff;
 - b. Any requests or requirements of the state auditor's office; or
 - c. Documented implementation plans.
3. The committee shall consist of three voting members of the SBHE and the Chancellor shall serve, ex officio, as a non-voting member of the committee. Each committee member shall be both independent and financially literate. The SBHE president will appoint committee members as well as the committee chair by June 30th of each year to serve one-year terms

starting July 1st. The SBHE president may also appoint additional members to serve, ex officio, as non-voting members of the committee. If a vacancy on the committee occurs before June 30th, the SBHE president shall appoint a voting member of the SBHE to fill the vacancy no later than the next regular meeting of the SBHE after the vacancy occurs.

4. The committee shall set a meeting schedule for the year at the committee's first meeting after July 1st. Meetings shall comply with all applicable laws, including the necessary posting of notice, the preparation of agendas in advance of meetings, and the recording of minutes for each meeting.
5. The committee will carry out the following responsibilities:
 - a. Financial statements:
 - i. Review significant accounting and reporting issues, including complex or unusual transactions and highly judgmental areas, and recent professional and regulatory pronouncements, and understand their impact on the financial statements.
 - ii. Review with management and the external auditors the results of an audit, including any difficulties encountered.
 - iii. Review the annual financial statements, and consider whether they are complete, consistent with information known to committee members, and reflect appropriate accounting principles.
 - iv. Review other sections of the annual report and related regulatory filings before release and consider the accuracy and completeness of the information.
 - v. Review with management and the external auditors all matters required to be communicated to the committee under generally accepted auditing standards.
 - vi. Understand how management develops interim financial information, and the nature and extent of internal and external auditor involvement.
 - vii. Review interim financial reports with management and the external auditors and consider whether they are complete and consistent with the information known to committee members.
 - b. Internal control:
 - i. Consider the effectiveness of the NDUS internal control system, including information technology security and control.
 - ii. Understand the scope of internal and external auditors' review of internal control over financial reporting, and obtain reports on significant findings and recommendations, with management's responses.
 - c. Organization:

- i. The NDUS chief audit executive (executive), and the compliance officer (officer), report functionally to the committee and administratively to the NDUS chief of staff or equivalent.
 - ii. The committee will ensure that there are no unjustified restrictions or limitations and review and concur in the appointment, replacement or dismissal of the executive or the officer.
 - iii. Obtain regular updates from the executive and the officer, management, the SBHE, and the attorney general regarding relevant matters.
 - iv. Review with the executive or the officer the internal audit or compliance budget, resource plans, activities and organizational structure.
 - v. At least once per year, review the performance of the executive and the officer and recommend the annual compensation and salary adjustment.
- d. Internal audit:
 - i. Approve an internal audit charter.
 - ii. Approve the annual audit plan and all major changes to the plan. Review the internal audit activity performance relative to its plan.
 - iii. Review the effectiveness of the internal audit function, including conformance with the following publications of the institute of internal auditors: the definition of internal auditing, code of ethics, and the international standards for professional practice of internal auditing.
- e. External audit:
 - i. Review the external auditors' proposed audit scope and approach, including coordination of audit effort with internal audit.
 - ii. Review the performance of the external auditors.
 - iii. Meet with the external auditors to discuss relevant matters, as needed.
- f. Compliance:
 - i. Review the effectiveness of the system for monitoring compliance with laws and regulations and the results of the officer's or management's investigation and follow-up of any instances of noncompliance, including review of disciplinary action.
 - ii. Review the findings of any examinations by the officer, regulatory agencies, and any auditor observations.
 - iii. Review the process for communicating the code of conduct to SBHE members and NDUS personnel, and for monitoring compliance therewith.

- g. Reporting responsibilities:
 - i. Regularly report to the SBHE about committee activities, issues, and related recommendations.
 - ii. Provide an open avenue of communication between internal audit, the external audit, and the SBHE.
 - iii. Review any other reports the system or institutions issue that relate to committee responsibilities.
- h. Other responsibilities:
 - i. Perform other activities related to this policy as requested by the SBHE.
 - ii. Institute and oversee special investigations as needed. Efforts should be made to keep the SBHE informed of such special investigations within the confines of open meetings laws.
 - iii. Review and assess the adequacy of the committee policy annually, requesting SBHE approval for proposed changes, and ensure appropriate disclosure as may be required by law, policy or regulation.
 - iv. Confirm annually that all responsibilities outlined in this policy have been carried out.
 - v. Evaluate the committee and individual member performance on a regular basis.
 - vi. Conduct regular SBHE self-assessments and report results to the SBHE.

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Policy: 302.3 Budget and Finance Committee

Effective: June 29, 2021

1. The SBHE budget and finance committee is established to ensure the NDUS fiscal stability and long-term economic health.
2. The budget and finance committee shall consist of no less than three voting members of the SBHE and the Chancellor shall serve, ex officio, as a non-voting member of the committee. The SBHE president will appoint committee members as well as the committee chair by June 30th of each year to serve one-year terms starting July 1st. No voting member of the SBHE shall serve more than three consecutive terms and terms shall be staggered to ensure continuity of committee membership over the budget cycle. The SBHE president may also appoint additional members to serve, ex officio, as non-voting members of the committee. If a vacancy on the committee occurs before June 30th, the SBHE president shall appoint a voting member of the SBHE to fill the vacancy not later than the next regular meeting of the SBHE after the vacancy occurs.
3. The budget and finance committee shall set a meeting schedule for the year at the committee's first meeting after July 1st. Meetings shall comply with all applicable laws, including the necessary posting of notice, the preparation of agendas in advance of meetings, and the recording of minutes for each meeting.
4. The committee is responsible for reviewing and recommending the following to the SBHE for approval:
 - a. Biennial budget guidelines, including tuition and fees that promote SBHE goals;
 - b. Biennial operating budget for the NDUS office and SBHE operations;
 - c. Biennial budget requests to the legislative and executive branches consistent with the SBHE's constitutional requirement to prepare "a single unified budget covering the needs of all institutions under its control";
 - d. Priorities for institution capital requests and the system-wide capital master plan;
 - e. Funding mechanisms and methodologies;
 - f. Allocation of funds directly appropriated to the SBHE;
 - g. Policies regarding human resources, finance and budget;

- h. Changes to budget and financial related reporting provided to the committee or SBHE;
 - i. Suggestions on information technology matters that present a significant risk to the NDUS.
 - j. Major financial studies;
 - k. Retirement plan changes;
 - l. Proposed bond issues;
 - m. Proposed purchase, sale or exchange of real property;
 - n. Proposed development of state land;
 - o. Proposed significant change or expansion to capital projects; and
 - p. Proposed campus assessments exceeding ten thousand dollars.
5. The budget and finance committee shall be responsible for receiving budget and finance reports, including:
- a. Tuition waivers;
 - b. Financial review report;
 - c. Mid-year budget status report;
 - d. Student affordability; and,
 - e. Financial statements.

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Policy: 302.4 Councils

Effective: September 30, 2015

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1. To assist the Chancellor and institution officers in management of the NDUS, policy development and to conduct research, prepare reports and make recommendations to the Chancellor and institution officers concerning assigned areas of responsibility, the Chancellor may establish system advisory councils, such as an academic affairs council, administrative affairs council, student affairs council, human resource council, or such additional councils as the Chancellor deems necessary or appropriate. The membership of the councils shall include institution officials, generally the chief institution officer in the relevant area of responsibility, and a NDUS office representative, or such other or additional members as the Chancellor may designate. The councils shall have such duties and responsibilities as the Chancellor may delegate to them. Institution officers and employees shall cooperate with and assist the work of the councils.
 2. Ad hoc user groups may be established to assist on special projects. These user groups may provide multiple forums throughout the year to collaborate system wide and share information pertaining to special projects. The user group offers an environment for members to network and share information and best practices with one another.

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Policy: 302.7 Research and Governance Committee

Effective: June 30, 2020

1. The SBHE research and governance committee is established to ensure that the SBHE and NDUS are serving the research needs of the institutions which make up the NDUS, including primarily the University of North Dakota and North Dakota State University, as well as to ensure the effectiveness of SBHE governance through thoughtful, focused attention placed on strategic evaluation and improved SBHE performance.
2. The research function of the committee shall consist of no fewer than three voting members of the SBHE and the Chancellor shall serve, ex officio, as a non-voting member of the committee. The research committee shall also have the following non-voting members:
 - a. From the University of North Dakota, 3 members: the President, the vice president responsible for research, and one faculty member appointed by the faculty senate;
 - b. From North Dakota State University, 3 members: the President, the vice president responsible for research, and one faculty member appointed by the faculty senate;
 - c. From the North Dakota University System, 1 member: the Vice Chancellor of Academic Affairs (or her designee); and
 - d. From the regional/dual mission and 2-year/polytechnic institutions, 1 member.

The committee chair may, as a matter of discretion, invite guests from the community or industry to participate in committee meetings.

3. The SBHE president will appoint SBHE committee members and designate the committee chair by June 30th of each year to serve one-year terms starting July 1st. If a member of the committee is no longer able to serve on the committee prior to June 30th, the vacant positions shall be filled as follows:
 - a. If an SBHE member, by the SBHE president;
 - b. If a non-faculty representative of the University of North Dakota or North Dakota State University or the North Dakota University System, by the successor to the duties of the vacant position (including any acting or interim appointee);
 - c. If a faculty representative of the University of North Dakota or North Dakota State University, at the next meeting of the respective faculty senate;
 - d. If the representative of the regional/dual mission and 2-year/polytechnic institutions,

following the procedure set forth in paragraph 4, below, except that the new representative shall serve out the remainder of the vacant term.

4. The representative referenced at paragraph 2(d) of this policy shall be from a regional/dual mission institution for one-year terms which begin in an odd-numbered year, and shall be from a 2-year/polytechnic institution for one-year terms which begin in an even-numbered year. The Presidents of institutions eligible to have a representative on the research committee in a given year shall submit nominations no later than June 1st. The Presidents of all regional/dual mission and 2-year/polytechnic institutions shall then vote on the nominated individuals no later than June 30th, and the nominee with the most votes shall be appointed to a one-year term beginning on July 1st. In the event of a tie, the Presidents shall hold a second vote on the tied individuals.
5. The governance function of the committee shall include the three voting SBHE members assigned by the SBHE, and the Chancellor shall be a non-voting member.
6. The research and governance committee shall set a meeting schedule for the following year at the committee's first meeting after July 1st. Meetings shall comply with all applicable laws, including the necessary posting of notice, the preparation of agendas in advance of meetings, and the recording of minutes for each meeting. The agenda may be divided into separate research and governance functions, as necessary.
7. The research function of the committee shall be responsible for leading the ongoing assessment and improvement of NDUS system-wide research performance, and for reviewing and recommending SBHE action, studies and reports related to research matters, such as
 - a. Accountability
 - i. Review and report on system-wide and institution-level research activities, metrics and overall performance, with the exception of research compliance and audit activities, which remain the responsibility of the Audit Committee.
 - b. Advisory
 - i. Communicate institutional needs or problems related to research and the research environment to the SBHE;
 - ii. Promote dissemination to the public of information about research at the institutions;
 - iii. Receive and report on information on issues that impact research at NDUS institutions;

- iv. Advise the SBHE on the implementation of policies, procedures, and programs, at the system and institution level, instituted for the support of research; and
- v. Serve as a forum for the discussion of improvement and expansion of research activity.

c. Integration/Collaboration

- i. Promote cooperation and collaboration between institutions, state and federal agencies, and the private sector on research and research-related issues; and other research-related issues as brought to the committee's attention by the institutions or other stakeholders;
- ii. Originate and suggest amendments to research related SBHE policies, including, but not limited to, changes to the scope and duties of the research committee;
- iii. Promote cross-institution collaboration in research; and
- iv. Promote and facilitate the commercialization of research results and intellectual property held by the institutions and the NDUS.

d. Strategic Guidance

- i. Promote the well-being of faculty and staff involved with research activity;
- ii. Make recommendations for the coordination of programs to enhance research and the research environment; and
- iii. Develop a bi-annual strategy focused on research.

8. The governance function shall be responsible for leading the ongoing assessment and improvement of SBHE performance by actively engaging in activities such as:

- a. Assisting the SBHE chair in developing and implementing meaningful orientation programs for new SBHE members;
- b. Developing goals for SBHE performance and benchmarks for measuring SBHE effectiveness to be considered by the SBHE; and
- c. Providing recommendations to the SBHE on how the annual evaluations of both the institution presidents and the Chancellor are conducted.

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Policy: 302.9 Faculty and Staff Advisors

Effective: April 25, 2019

1. According to N.D.C.C. § 15-10-02, the NDUS council of college faculties (CCF) shall appoint or elect one individual to serve as an advisor to the SBHE, for a one-year term beginning July first and ending June thirtieth. The selection shall be made not later than March thirty-first each year according to procedures established by the CCF.
2. According to N.D.C.C. § 15-10-02, the NDUS staff senate shall appoint or elect one individual to serve as an advisor to the SBHE, for a one-year term beginning July first and ending June thirtieth. After selection of the initial advisor for the 2011-12 term, the selection shall be made not later than March thirty-first each year according to procedures established by the staff senate.
3. Meetings of the CCF and staff senate at which selection of an advisor to the SBHE is discussed or made are subject to North Dakota's open meetings laws and the chair or president of each group is responsible for compliance with open meetings requirements.
4. The CCF and staff senate advisors are entitled to attend each SBHE meeting and participate in all meetings as non-voting advisors. The advisors shall be released from regular duties for time required to attend meetings without loss of pay or other penalty and are entitled to payment or reimbursement of travel expenses.

Reference: N.D.C.C. § 15-10-02

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Policy: 303.1 SBHE Meetings and Agendas

Effective: December 6, 2018

1. The SBHE shall establish an annual meeting schedule with meeting dates and locations. The president may call special or emergency meetings.
2. Rules of order shall generally conform to the latest edition of Robert's Rules of Order.
3. The NDUS staff shall prepare and distribute SBHE meeting agendas prior to a regular meeting. The Chancellor shall consult the SBHE chair concerning agenda items. Institution officers shall submit agenda items to the NDUS office according to procedures established by the Chancellor. The Chancellor shall consult the SBHE chair concerning emergency items, and those items may be added to an agenda at the discretion of the SBHE president.
4. A consent agenda may be presented by the SBHE chair at the beginning of a meeting. Items which may be placed on the consent agenda by the chair include: approval of the minutes; final approval of proposals or reports that the SBHE has previously discussed and about which all members are familiar; staff appointments requiring SBHE confirmation; reports provided for information only; and other routine, procedural, or non-controversial matters. Items shall be removed from the consent agenda at the request of any one member. Items not removed may be adopted by general consent without debate, in one or successive motions. Removed items may be taken up either immediately after the consent agenda or placed later on the agenda at the discretion of the chair.

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Policy: 303.2 NDUS Strategic Plan and Objectives; Institution Strategic Plans

Effective: April 8, 2010

1. The SBHE shall adopt a strategic plan as required by N.D.C.C. § 15-10-14.2. The strategic plan shall include a vision, strategic goals and objectives to be achieved, or for which substantial progress may be made, over a period of years. Objectives shall be specific, measurable, and actionable with assigned responsibility and time frames. The SBHE strategic planning process shall include:
 - a. Input from a broad range of internal and external stakeholders;
 - b. Approval of a vision for the NDUS;
 - c. Approval of strategic goals to achieve the vision for the NDUS;
 - d. Approval of specific, measurable objectives related to each goal and linked to accountability measures as appropriate that are to be achieved over a period of four to six years; and
 - e. Periodic review and consideration of a revised or updated plan at least every six years.
2. The SBHE shall annually, prior to June first, review and assess performance in attaining its objectives and update or revise the objectives as deemed necessary. As part of this annual process, the SBHE shall provide direction to the Chancellor relating to annual objectives for the Chancellor and presidents.
3. Each institution shall adopt a strategic plan and implement a strategic planning process that involves faculty and staff and institution constituents. Institution strategic plans shall define institutional priorities to carry out the institution's mission and be aligned with the NDUS strategic plan and SBHE policies.

Reference: N.D.C.C. § 15-10-14.2

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Policy: 304.1 Chancellor/Commissioner of Higher Education Authority and Responsibilities;
Contract Term

Effective: April 25, 2019

1. The terms Commissioner and Chancellor shall be used interchangeably throughout this manual.
2. In accordance with Art. VIII, § 6(7)(c) of the North Dakota Constitution and consistent with SBHE Policy 100.6, the Chancellor is the chief executive officer of the SBHE and NDUS. The Chancellor is empowered to execute all documents and exercise all powers necessary to the discharge of that office. Operating under the overall direction and policy control of the SBHE, the Chancellor:
 - a. Provides vision and overall leadership for the NDUS and a single focus of accountability to the state and its citizens;
 - b. Shall be the chief executive and administrative authority for the NDUS;
 - c. Serves as the primary link between the SBHE responsibilities for policy and the institutional chief executive officers' responsibilities for operations;
 - d. Promotes and preserves the overall mission and goals of the NDUS by working with each institutional chief executive officer to plan, build, and sustain appropriate academic and co-curricular programs and initiatives that minimize duplication and link NDUS resources to state, regional, and national needs;
 - e. Working with the institutional chief executive officers, proposes to the SBHE short- and long-term planning goals, policies, and actions which serve the best interests of the NDUS;
 - f. Working with the institutional chief executive officers, promulgates guidelines and regulations for the consistent interpretation and application of SBHE policies;
 - g. Monitors and evaluates the performance of the institutional chief executive officers and the institutions in pursuit of established missions and goals;
 - h. Serves as the "voice" of the NDUS to the citizens, governor, state legislature, and the SBHE regarding the capacity of the NDUS in meeting the priorities of the state and other matters not reserved to the SBHE;
 - i. Communicates the needs of the state to the NDUS community;
 - j. Serves as a "shield" against outside interference in NDUS and institutional matters;

- k. institutional chief executive officers, develops inter-institution cooperative academic and operational programs and services designed to reduce cost while improving efficiencies and accountability;
 - l. Ensures that the office of the Chancellor can meet NDUS responsibilities that include academic policy, planning, and quality assessment; capital planning and construction; budgeting; human resources policy and compliance; institutional research; risk management; auditing; legal services; information technology systems and services shared among the institutions; and legislative and community relations;
 - m. Serves as the channel of communication between the SBHE and all subordinate administrative officers and personnel, including institutional chief executive officers;
 - n. May consult with each institution's constituency groups through the institutional chief executive officers on matters which the Chancellor deems appropriate for constituency involvement;
 - o. Administers the academic, financial, and other functions of the NDUS in a manner which assures support for the approved mission of each institution;
 - p. Directs the activities of the institutional chief executive officers in a manner which promotes the general welfare of the NDUS while ensuring support for the approved mission of each institution;
 - q. Evaluates the performances of the institutional chief executive officers on an annual basis; and
 - r. Balances the sometimes competing interests of the institutions.
3. Among other duties and responsibilities, the Chancellor shall:
- a. Execute and administer the policies, decisions, and rules of the SBHE;
 - b. Prepare policy recommendations for the SBHE consideration;
 - c. Exercise administrative control, consonant with SBHE policy, over inter-institutional matters including those pertaining to budgets, curriculum, research, and public service, and extension activities;
Appoint, determine the composition of and delegate duties to such committees or councils as the Chancellor deems advisable
 - d. Subject to applicable SBHE policies, make recommendations to the SBHE concerning appointment, compensation, and other terms of employment for institution presidents;
 - e. Provide for the administration and staffing of the NDUS office;
 - g. Following recommendations of the institutional chief executive officers, make

- recommendations to the SBHE regarding tenure;
- h. Review and approve or refuse to approve dismissal or termination of an appointment of an institution's chief finance officer or internal auditor;
 - i. Serve as the official representative of the SBHE and the institutions and entities it governs to the legislature, to the governor, to the executive branch, and to other governmental entities;
 - j. Serve as the channel of communications between the SBHE and all NDUS administrative officers and personnel. In this connection, the Chancellor shall have direct access to the SBHE and, with the presidents, inform and advise the SBHE with respect to operations of the NDUS and its institutions;
 - k. Act on behalf of the SBHE during the interim between meetings provided that the Chancellor shall promptly inform the SBHE president of the action, and report and request ratification of the decision at the next SBHE meeting;
 - l. Act on behalf of the SBHE as the sole authority to request opinions from the attorney general's office and coordinate all legal services of the institutions and entities governed by the SBHE;
 - m. Approve, on behalf of the SBHE, grants that have been recommended by the grant review committee established by N.D.C.C. § 15-10-51; and
 - n. Exercise such other authority and perform such other responsibilities as may be assigned by the SBHE.
4. In exercising this authority and carrying out these responsibilities, the Chancellor shall conform to and advocate the SBHE beliefs and core values.
5. The Chancellor shall establish a process or forum enabling institutional chief executive officers to provide advice to the Chancellor regarding matters affecting the NDUS. The Chancellor shall ensure that NDUS institutions cooperate to improve academic offerings, expand access to education, promote faculty development, improve support services, reduce unnecessary duplication and enhance efficiency. As part of this process or forum, the Chancellor shall determine whether any of the institutional chief executive officers has dissenting or opposing views on any matter before the NDUS or the SBHE. The Chancellor shall report any such dissenting or opposing views, by tier (research, regional/dual mission and two-year/polytechnic), in his recommendation to the SBHE.
6. The Chancellor serves at the pleasure of the SBHE. The Chancellor shall have a written contract for a term not to exceed three years. The SBHE shall annually evaluate the Chancellor's performance as provided in SBHE Policy 604.2. Subject to satisfactory performance, the SBHE may each year extend the Chancellor's contract for an additional term of not more than three years. The Board may, based on its annual evaluation of

Chancellor performance, decide to not extend the term of a contract or give notice that a contract will not be renewed beyond the end of a current term.

7. The SBHE may dismiss the Chancellor for just cause during a contract term, following written notice of its intent to do so and an opportunity for an evidentiary hearing. The SBHE may appoint a hearing officer or administrative law judge to conduct the hearing before the SBHE.
8. A tenured faculty member at an NDUS-governed institution who is appointed Chancellor may retain the tenured status at that institution during the term as Chancellor. The SBHE, at the time of initial appointment or thereafter and commensurate with qualifications, may award a tenured full professorship to an individual appointed Chancellor if the individual has had a tenured full professorship appointment at another institution before or at the time of the appointment.

Amends or Repeals: Article I, Section 7.A., portion of Article I, Section 7.B

References: ND Const. Art. VIII, § 6(7)(c); N.D.C.C. § 15-10-51; SBHE Policies 100.6., 604.2; NDUS Procedure 301.

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Policy: 305.1 Institution President Authority and Responsibilities; Contract Terms

Effective: May 30, 2019

1. The SBHE delegates to the president of each institution full authority and responsibility to administer the affairs of the institution in accordance with SBHE policies, plans, budgets, and standards, including the management and expenditure of all institutional funds, within budgetary and other limitations imposed by law or by the SBHE.
2. The president is the chief executive officer of the institution and a member of the Chancellor's executive staff. The president reports and is responsible to the Chancellor for all matters concerning the institution and is an advisor to the Chancellor in matters of inter-institutional policy and administration.
3. Presidents have the authority to work with the Chancellor to develop, shape, and sustain the vision and mission of their institution within the context of the overall NDUS and to manage their institution on a day-to-day operational basis. Presidents shall consult with the Chancellor on decisions of mutual interest before those decisions are made or announced. Subject to SBHE policies, NDUS procedures, and SBHE and Chancellor directives, presidents:
 - a. Are responsible for carrying out approved policies, guidelines, and regulations governing the management of academic, business, and student affairs, delegating execution to administrative aids and heads of appropriate functional areas;
 - b. Have primary responsibility for the internal organization of the institution's administration, including academic, administrative, and student affairs, and the development and management of the physical plant and auxiliary services;
 - c. Ensure the assets of the institution are continually directed toward maintaining and sustaining the quality of teaching, research, and service that comprise the mission and goals of the institution;
 - d. Are responsible for consensus building; facilitation of quality scholarship; careful management of resources; recruitment and retention of outstanding faculty, staff, and students; problem solving; and promoting the intellectual, physical, and fiscal health of the institution
 - e. Provide the necessary leadership and management skills, including planning and policy development, for the institution to achieve its mission and goals;

- f. Ensure excellence in the institution's teaching, research, and service missions while maintaining the strength of the institution's academic and co-curricular programs and furthering the recruitment and retention of outstanding teachers, scholars, staff, and students;
 - g. Maintain a productive relationship with faculty, students, staff, and alumni;
 - h. Ensure a fair and appropriate distribution of resources to support and sustain the institution's academic, research, and service assets;
 - i. Develop and maintain effective and productive relationships with the institution's adjoining communities, business, and government agencies by building strong town-gown partnerships;
 - j. Articulate to the institution community the SBHE and Chancellor's goals and assigned mission of the institution;
 - k. Secure grants, gifts, and contracts from private, state, and federal sources that further the mission and goals of the institution;
 - l. Appoint academic and non-academic employees within the limitation of powers delegated by the SBHE and Chancellor;
 - m. Assume primary responsibility for fund-raising and alumni relations; and
 - n. Shall have an annual performance review by the Chancellor based upon a statement of goals for the year of evaluation which were previously formulated by the president and approved by the Chancellor.
4. Each president shall:
- a. Ensure effective and broad-based participation in the decision-making process from faculty, staff, students, and others in those areas in which their interests are affected;
 - b. Develop and approve or recommend to the Chancellor and the SBHE, in consultation with appropriate committees or members of the institution, such policies, plans, budgets, programs, and standards affecting the institution as deemed necessary, advisable or as required by the SBHE;
 - c. Make recommendations to the Chancellor concerning all requests for tenure;
 - d. Approve all personnel actions, except the award or change in tenure status, involving all faculty members and other institution employees;
 - e. Notify the Chancellor of any dismissal or termination of senior staff;
 - f. Review and evaluate all recommendations transmitted from the institution to the

Chancellor or the SBHE;

- g. Define the scope of authority of faculties, councils, committees and administrative officers of the institution;
- h. Establish a process for adoption and implementation of institution policies and procedures that includes:
 - i. The president's approval before a policy takes effect; and
 - ii. Authority for the president to adopt interim policies and procedures concerning matters for which legislative authority is delegated to an institution's legislative bodies. Adoption of an interim policy or procedure must include notice to the faculty senate or other legislative body before or when the policy or procedure takes effect. Not later than six months of its effective date, the president shall present the interim policy or procedure to the appropriate legislative body for review and its decision, subject to the president's approval or veto, concerning whether the policy or procedure should be adopted, revised, or discontinued;
- i. Comply with the rules of the athletic association(s) to which the institution belongs.
- j. Assume responsibility for the establishment of guidelines for student conduct which set forth prohibited conduct and provide for appropriate disciplinary procedures and sanctions for violation of institutional rules, consistent with standards of procedural fairness;
- k. Maintain positive relations and effective communication with the Chancellor and Chancellor's staff, the SBHE, and other North Dakota institutions of higher education and cooperate with other NDUS institutions to improve academic offerings, expand access to higher education, promote faculty development, improve support services, reduce unnecessary duplication, and enhance efficiency;
- l. Inform and advise the Chancellor and SBHE regarding significant issues at the institution;
- m. Maintain positive relations with the public by:
 - i. Developing sound relationships between the institution and the community and region in which it is located and the public it serves;
 - ii. Establishing and administering a development program with alumni and other institutional supporters;
 - iii. Interpreting the institution and its mission to the public; and
 - iv. Developing positive relationships with legislators and with other public policy makers in coordination with the Chancellor;
- n. Be accountable for all funds, equipment, property, including the security of information systems and data, as well as and other facilities assigned or provided to the institution.

- i. Prepare an annual report to the Chancellor that details efforts that the institution has undertaken to comply with information technology policies found in major section SBHE Policy 1200s as well as related procedures and standards;
 - o. Consistently support and adhere to, and require responsible institution officers and employees to support and adhere to, SBHE beliefs and core values set forth in SBHE Policy 100.5, SBHE policies and NDUS procedures, and SBHE and Chancellor directives and guidelines; and
 - p. Exercise such other authority and perform such other responsibilities as may be assigned by the Chancellor or the SBHE.
- 5. A president may delegate duties and responsibilities as necessary or appropriate.
- 6. In exercising this authority and carrying out these responsibilities, a president shall strive to conform to and advocate the SBHE beliefs and core values.
- 7. Presidents are hired at the pleasure of the SBHE. Each president shall have a written contract. The Chancellor shall annually evaluate a president's performance and report on the evaluation to the SBHE.
 - a. Presidents shall have an initial appointment of three years and may receive subsequent appointments between one and three years in duration.
 - b. If the SBHE terminates a president's appointment without cause, the president will receive an amount equal to twelve months' salary and benefits based on the president's salary and benefits at the time of the termination. Alternatively, a president of a four-year institution who has a tenured faculty appointment may exercise retreat rights instead of receiving an amount equal to twelve months' salary and benefits. Retreat rights allow the president to revert to a tenured faculty position in the department in which tenure was previously awarded.
- 8. In consultation with the SBHE, the Chancellor may initiate dismissal of a president for just cause during the contract term and shall provide a written notice of intent to do so and an opportunity for a hearing conducted by the Chancellor. The Chancellor shall provide not less than five days for a response by the president following delivery of notice of intent, before a dismissal decision. The Chancellor may suspend a president with pay and benefits or reassign a president to other duties pending a decision. The Chancellor may limit the hearing to Chancellor review of the president's written response to the notice and opportunity to submit additional information or may include an opportunity for an informal meeting with the Chancellor. Following the hearing conducted by the Chancellor, the Chancellor may recommend dismissal or other appropriate action by the SBHE. Following a dismissal decision or imposition of other discipline by the SBHE, a president may, within ten days of notice of the SBHE decision, file with the SBHE secretary or legal counsel a written appeal and request for evidentiary hearing, which must be accompanied by a specification of reasons for the request. The Board shall then conduct or arrange for a hearing. The SBHE may

appoint a hearing officer or administrative law judge to conduct the hearing and make findings of fact, conclusions of law, and a recommendation to the SBHE, which shall then make a final decision based on the hearing record.

9. A tenured faculty member at a NDUS institution who is appointed president shall retain that status during the term as president.

Reference(s): SBHE Policy 100.5; NDUS Procedure 301.

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Policy: 306.1 Compliance Office Charter

Effective: May 30, 2019

1. The NDUS compliance office (the Office) is an independent and objective unit of the NDUS responsible for assessing, monitoring, and reviewing compliance with SBHE Policies and NDUS Procedures, institutions' policies and procedures, the North Dakota Century Code and North Dakota Administrative Code, federal laws, and any other applicable rules, regulations, and policies.

The Office is responsible for establishing and improving NDUS's compliance governance, structure and systems, and for designing and conducting ethics and compliance programs and activities for NDUS and its individual institutions. These responsibilities include, but are not limited to the following:

- a. Establishing standards and procedures to prevent and detect non-compliant, unlawful or unethical conduct and identifying potential compliance vulnerability by working closely with NDUS and institution officials;
- b. Conducting education and training programs, and disseminating information as appropriate to all levels of NDUS;
- c. Periodically evaluating the effectiveness of the compliance and ethics program; Issuing reports referring compliance matters to the appropriate level of NDUS administration, institutional administration, or the Audit Committee, and reporting on subsequent corrective action;
- d. Preparing regular reports for NDUS administration and the Audit Committee summarizing compliance status and suggesting necessary changes;
- e. Conducting research and staying up-to-date on compliance issues affecting higher education;
- f. Monitoring the NDUS Fraud Hotline either directly or through a contractor, and responding to, forwarding, or investigating such reports, as appropriate, pursuant to subsection 10;
- g. Receiving complaints and concerns directly, and responding to, forwarding, or investigating such reports, as appropriate, pursuant to subsection 10;

- h. Coordinating external consultants contracted for compliance and investigative engagements, and acting as a liaison to the Audit Committee and SBHE; and
 - i. Conducting, or coordinating with outside firms hired to conduct, surveys, including surveys related to culture and climate, if requested of the Chancellor, the Audit Committee, The SBHE, or campus chief executive officers.
- 2. The Office falls under the authority and administration of the SBHE and its responsibilities are defined by the SBHE and the Audit Committee.

The Office supports the NDUS and its individual institutions in a collective effort to promote a culture of ethical behavior and compliance. The Office shall work with each institution's compliance office or function to help ensure all NDUS institutions have the information and tools needed to maintain an effective compliance program and to assess the effectiveness and quality of institutional programs. The Office shall collaborate with NDUS internal audit activity, and shall be governed by the Institute of Internal Auditors' mandatory guidance, including: the definition of internal auditing, the code of ethics, and the international standards for the professional practice of internal auditing (the Standards).

- 3. The Office and its materials and records shall be afforded the highest level of confidentiality permitted by the state open records law. The Office shall safeguard all records and information received in its official functions in accordance with the Standards, SBHE policies, and state and federal law.
- 4. The Office shall be afforded unrestricted access to any and all NDUS and its institutions' records, physical properties, and personnel pertinent to carrying out any engagement, subject to the requirements of state and federal privacy laws such as FERPA and HIPAA. All NDUS employees shall assist the Office in fulfilling its roles and responsibilities by complying with the Office's reasonable requests. The authority of the Office does not extend to any private foundation affiliated with any NDUS institution. The Office will also have unrestricted access to the SBHE and Audit Committee. The Office will execute any agreements required by state or federal law to access the records of the NDUS and its institutions.
- 5. The office shall:
 - a. Consist of the NDUS compliance officer (the Officer) and any compliance office staff or consultants hired by the system office for the purposes of aiding the Officer;
 - b. Report functionally to the SBHE and the Audit Committee and administratively (i.e. day to day operations) to the NDUS Chancellor.
- 6. All NDUS personnel performing formal compliance activities, regardless of location, have a responsibility to report issues that may be of system-wide concern to the Officer or the Audit Committee.

7. The Audit Committee, shall:
 - a. Review and approve the compliance program and plan on an annual basis;
 - b. Approve the Office budget and resource plan;
 - c. Receive communications from the Officer on the compliance office's performance relative to its plan and other matters;
 - d. Make decisions regarding the appointment and removal of the Officer;
 - e. Recommend and approve the remuneration of the Officer;
 - f. Make appropriate inquiries to determine whether there is inappropriate scope or resource limitations;
 - g. Make recommendations to the SBHE to take actions based on reports received from the Officer; and
 - h. Review disputes regarding investigations, reports, or recommendations issued by the Officer.
8. The Officer shall communicate and interact directly with the Board and Audit Committee, including in executive sessions and between Board and Audit Committee meetings as appropriate.
9. The Office shall adhere to the following principles:
 - a. The Office shall remain free from interference by any element in the NDUS, including matters related to all aspects of the compliance function.
 - b. The Office shall exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined, in compliance with the Standards. Compliance personnel shall make a balanced assessment of all the relevant circumstances and not be unduly influenced by their own interests or by others in forming judgments.
 - c. The Officer shall confirm to the Board, no less than annually, the organizational and operational independence of the Office.
10. With respect to the Office's handling of complaints:
 - a. SBHE Policy 611.10 provides the process and requirements for reporting suspected theft, fraud or unlawful or improper use of assets, as well as suspected violations of the NDUS officer and employee code of conduct found in SBHE Policy 308.1.

- b. Complaints and concerns may be reported via the fraud hotline or directly to the Officer or the institution. The Officer shall notify appropriate campus officials of a complaint described within subsection c within a reasonable amount of time after the complaint is received by the Office unless the Officer determines immediate notification would be inappropriate in consultation with the chair of the Audit Committee. With respect to complaints submitted pursuant to subsection d, the chair of the Audit Committee shall determine when it is appropriate to provide notice to campus officials. All complaints, whether or not reported anonymously, will be handled consistently and in a confidential manner to the fullest extent permitted by the state open records law. All complaints shall be investigated to the extent determined necessary by the Officer, and reports shall be issued after investigations are complete.
- c. Routine complaints, which are all complaints except those considered under subsection d, concerning a particular institution will be forwarded to the institution's designated investigator(s). Campus investigation reports shall be forwarded to the institution president and to the Officer. Additional investigation or action may be recommended by the Officer.
- d. Complaints involving an institution's chief executive officer, an identified compliance investigator, or system-level concerns shall be investigated by the Officer. Investigation reports shall be submitted to the relevant institutional administration, the Audit Committee, and, at the discretion of the Officer in consultation with the chair of the Audit Committee, other appropriate personnel.
- e. Disputes regarding investigations, reports, or recommendations issued by the Officer can be reviewed by the Audit Committee. The Officer or institutional administration can submit a request to the chair of the Audit Committee, who has discretion to place the matter on the agenda of a regular or special meeting of the Audit Committee. The Audit Committee may issue a directive to the Officer, forward a recommendation to the full SBHE, or arrange for further investigation by the Officer, the State Auditor, or an outside investigator.

References: SBHE Policies 308.1, 611.10

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Policy: 306.2 Internal Audit Charter

Effective: May 30, 2019

1. INTRODUCTION:

Internal Auditing is an independent and objective assurance and consulting activity that is guided by a philosophy of adding value to improve the operations of the North Dakota University System (NDUS). It assists NDUS in accomplishing its objectives by bringing a systematic and disciplined approach to evaluate and improve the effectiveness of the organization's governance, risk management and internal control.

2. ROLE AND OBLIGATION:

The internal audit activity is established by the State Board of Higher Education (Board). The internal audit activity's responsibilities are defined by the Board and the Audit Committee as part of their oversight role.

The internal audit activity of NDUS is responsible for conducting system-wide audits as well as institution specific audits, including the NDUSO and CTS, for those institutions that do not directly employ internal audit staff. Each research institution shall directly employ its own internal audit staff.

3. PROFESSIONALISM:

- a. The internal audit activity will govern itself by adherence to The Institute of Internal Auditors' mandatory guidance including the Definition of Internal Auditing, the Code of Ethics, and the International Standards for the Professional Practice of Internal Auditing (Standards). This mandatory guidance constitutes principles of the fundamental requirements for the professional practice of internal auditing and for evaluating the effectiveness of the internal audit activity's performance.
- b. The Institute of Internal Auditors' Practice Advisories, Practice Guides, and Position Papers will also be adhered to as applicable to guide operations. In addition, the internal audit activity will adhere to relevant Board policies and procedures and the internal audit activity's standard operating procedures manual.

4. AUTHORITY:

The internal audit activity, with strict accountability for confidentiality and safeguarding records and information, is authorized full, free, and unrestricted access to any and all NDUS (and affiliated organizations) records, physical properties, and personnel pertinent to carrying out any engagement. All NDUS (and affiliated organizations) employees are requested to assist the internal audit activity in fulfilling its roles and responsibilities. The internal audit activity will also have free and unrestricted access to the Board and Audit Committee.

5. ORGANIZATION:

- a. The internal audit activity of NDUS will consist of the NDUS chief audit executive (CAE) and any internal audit staff or consultants hired by the system office or any of the institutions which comprise the NDUS system.
- b. The CAE will report functionally to the Audit Committee and administratively (i.e. day to day operations) to the NDUS Chancellor.
- c. Institutionally based internal audit activity will report functionally and administratively to the institutional chief executive officer and if warranted, to the Audit Committee.
- d. In the event that institutionally based internal audit activity is performed at other than a home institution, said internal audit activity will report functionally to the institutional chief executive officer of the institution where the work is being performed. Administrative reporting is unchanged.
- e. All internal audit activity, regardless of location, have an indirect report to the CAE and the Audit Committee.
- f. The Board and Audit Committee will:
 - i. Review and approve the internal audit charter.
 - ii. Approve the risk based internal audit plan.
 - iii. Approve the internal audit budget and resource plan.
 - iv. Receive communications from the CAE on the internal audit activity's performance relative to its plan and other matters.
 - v. Make decisions regarding the appointment and removal of the CAE.
 - vi. Recommend and approve the remuneration of the CAE.
 - vii. Make appropriate inquiries NDUS senior staff and the CAE to determine whether there is inappropriate scope or resource limitations.
 - viii. Make recommendations to the SBHE to take actions based on reports received from the CAE; and
 - ix. Review disputes regarding investigations, reports, or recommendations issued by the CAE.
- g. The CAE will communicate and interact directly with the Board and Audit Committee, including in executive sessions and between Board meetings as appropriate.

6. INDEPENDENCE AND OBJECTIVITY:

- a. The internal audit activity will remain free from interference by any element in the organization, including matters of audit selection, scope, procedures, frequency, timing, or report content to permit maintenance of a necessary independent and objective mental attitude.

- b. Internal auditors will have no direct operational responsibility or authority over any of the activities audited. Accordingly, they will not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity that would normally be subject to review. However, Internal Audit may be consulted when new systems or procedures are designed to ensure they adequately address internal controls.
- c. Internal auditors will exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined. Internal auditors will make a balanced assessment of all the relevant circumstances and not be unduly influenced by their own interests or by others in forming judgments.
- d. The CAE will confirm to the Board, at least annually, the organizational independence of the internal audit activity.

7. RESPONSIBILITY:

The scope of internal auditing encompasses, but is not limited to, the examination and evaluation of the adequacy and effectiveness of the organization's governance, risk management, and internal controls as well as the quality of performance in carrying out assigned responsibilities to achieve the organization's stated goals and objectives. This includes:

- a. Evaluating risk exposure relating to achievement of the organization's strategic objectives.
- b. Evaluating the reliability and integrity of information and the means used to identify measure, classify, and report such information.
- c. Evaluating the systems established to ensure compliance with those policies, plans, procedures, laws, and regulations which could have a significant impact on the organization.
- d. Evaluating the means of safeguarding assets and, as appropriate, verifying the existence of such assets.
- e. Evaluating the effectiveness and efficiency with which resources are employed.
- f. Evaluating operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.
- g. Follow-up, as needed, on the implementation of planned corrective action by auditees on issued internal audit recommendations.
- h. Monitoring and evaluating governance processes.

- i. Monitoring and evaluating the effectiveness of the organization's risk management processes.
- j. Evaluating the quality of performance of external auditors and the degree of coordination with internal audit.
- k. Performing consulting and advisory services related to governance, risk management and internal control as appropriate for the organization.
- l. Reporting periodically on the internal audit activity's purpose, authority, responsibility, and performance relative to its plan.
- m. Reporting significant risk exposures and control issues, including fraud risks, governance issues, and other matters needed or requested by the Board.
- n. Evaluating specific operations at the request of the Board or Chancellor, or institutional chief executive officers, as appropriate.

8. INTERNAL AUDIT PLAN:

- a. At least annually, the CAE will submit to the Chancellor, institutional chief executive officers, and the Board an internal audit plan for review and approval. The internal audit plan will consist of a work schedule as well as budget and resource requirements for the next fiscal year. The CAE will communicate the impact of resource limitations and significant interim changes to the Chancellor, institutional chief executive officers, the Board, and Audit Committee.
- b. The internal audit plan will be developed based on a prioritization of the audit universe using a risk-based methodology, including input of the Chancellor, institutional chief executive officers, and the Board. The CAE will review and adjust the plan, as necessary, in response to changes in the organization's business, risks, operations, programs, systems, and controls.
- c. The majority of audits are planned, however that does not preclude Internal Audit from conducting unplanned audits, following the same standards of engagement and reporting as planned audits. As unplanned projects are required, they are included in the overall plan for the year. Any significant deviation from the approved internal audit plan will be communicated to the Chancellor, institutional chief executive officers, the Board, and Audit Committee through periodic activity reports.

9. REPORTING AND MONITORING:

- a. A written report will be prepared and issued by the CAE, designee, or institutional internal audit staff or designee following the conclusion of each internal audit engagement and will be provided to the Chancellor and appropriate institutional chief executive officer(s).

- b. Internal audit reports issued by any institutional internal audit activity will be submitted to the CAE in a timely manner.
- c. Internal audit results will also be communicated to the Board and Audit Committee.
- d. The internal audit report may include management's response and corrective action taken or to be taken in regard to the specific findings and recommendations. Management's response, whether included within the original audit report or provided thereafter (i.e. within thirty days) by management of the audited area should include a timetable for anticipated completion of action to be taken and an explanation for any corrective action that will not be implemented.
- e. The internal audit activity will be responsible for appropriate follow-up on engagement findings and recommendations. All significant findings will remain in an open issues file until cleared.
- f. The CAE will periodically report to the Chancellor, institutional chief executive officers, the Board, and Audit Committee on the internal audit activity's purpose, authority, and responsibility, as well as performance relative to its plan. Reporting will also include significant risk exposures and control issues, including fraud risks, governance issues, and other matters needed or requested by the Chancellor, institutional chief executive officers, the Board, and Audit Committee.

10. QUALITY ASSURANCE AND IMPROVEMENT PROGRAM:

- a. The internal audit activity will maintain a quality assurance and improvement program that covers all aspects of the internal audit activity. The program will include an evaluation of the internal audit activity's conformance with the Definition of Internal Auditing and the Standards and an evaluation of whether internal auditors apply the Code of Ethics. The program also assesses the efficiency and effectiveness of the internal audit activity and identifies opportunities for improvement.
- b. The CAE will communicate to the Chancellor, institutional chief executive officers, the Board, and Audit Committee on the internal audit activity's quality assurance and improvement program, including results of ongoing internal assessments and external assessments conducted at least every five years.

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Policy: 307.1 Institutional Organization--Notice and Approval

Effective: October 24, 2019

1. SBHE approval is required to create, discontinue or name a school, college, academy, center or institute. Institutions shall submit such requests, along with rationale and supporting information, to the Chancellor and the Chancellor shall forward the proposal to the SBHE with a recommendation. The review process includes two phases:
 - a. Exploration – Requires the completion and approval of a strategic plan but is prior to beginning major fundraising efforts.
 - b. Approval – Upon completion of all fundraising, planning and programming work but prior to hiring faculty or accepting students.
2. As used in this policy, “school, college, academy, center or institute” means a unit that has as a primary function or activity in academic instruction, research, or service beyond the immediate institution community. The terms do not include space designations, or units that simply have the word “center” in their title, or units that provide non-academic services, such as dining centers. The presence or absence of the terms “school, college, academy, center or institute” in the title of the unit does not determine whether the unit is governed by this policy.

Reference(s): SBHE Policy 902.12

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Policy: 307.3 Branch Institution Governance and Organization

Effective: September 17, 2009

1. The following institutions are branches of their respective main campuses:

Dakota College at Bottineau, a branch institution of Minot State University.

The governance and organization of a branch institution shall be consistent with applicable law and SBHE policy and set forth in a policy document approved by the Chancellor.

2. The main institution shall provide consultative services to its branch to augment the efforts of branch personnel. Joint efforts and services are required in student affairs functions and encouraged in other areas.

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Policy: 308.1 Officer and Employee Code of Conduct

Effective: July 23, 2020

1. This officer and employee code of conduct governs the SBHE and its members and establishes minimum standards for all NDUS officers and employees. The SBHE and entire NDUS are committed to uphold the highest ethical and professional standards. All SBHE members and NDUS officers and employees shall comply with all applicable laws, regulations, policies and procedures. Activities that achieve results unlawfully or in violation of applicable policies or procedures or by unethical behavior – including payments for illegal acts, indirect contributions, rebates, or bribery - are not tolerated and must be reported. All conduct must meet or exceed minimum standards established by law.

The SBHE has established its beliefs and core values in SBHE Policy 100.5 and in SBHE Policy 100.6, the SBHE sets forth authority and responsibility of the SBHE, including its guiding principles. SBHE Policies 100.5 and 100.6 establish a foundation or framework for SBHE action and conduct of its members and NDUS officers and employees; this code of conduct reinforces and supplements those policies.

2. The SBHE supports an environment that is free of discrimination or harassment. All SBHE members, officers and employees are expected to conduct themselves in a businesslike manner. Unlawful consumption of alcoholic beverages or use of illegal drugs, being at work while under the influence of alcohol or drugs, disruptive behavior, unlawful gambling, unauthorized use of public property or resources and other unauthorized activities that disrupt the efficient and economical administration of the NDUS, are prohibited. Violation of applicable laws or policies governing possession and use of alcoholic beverages or drugs, including the Drug Free Workplace Act, SBHE Policy 615 or applicable NDUS office or institution policies, are prohibited. Likewise, sexual or other harassment (including actions contributing to a hostile work environment) in violation of federal or state law or SBHE Policy 603.1, is prohibited. Policy 520 governs sexual harassment which violates Title IX of the Education Amendments of 1972.
3. All SBHE members, officers and employees are expected to perform their duties conscientiously, honestly, and in accordance with the best interests of the NDUS. All SBHE members, officers and employees shall comply with applicable federal and state laws. SBHE members, officers and employees may not unlawfully use their position or the knowledge gained because of their position for private or personal advantage. All SBHE members, officers and employees are responsible for their own actions. Any individual who has concerns or questions regarding a perceived or potential conflict or regarding application or interpretation of federal or state law or SBHE policy is encouraged to communicate with a superior or with legal counsel.

4. SBHE members, officers and employees share responsibility for positive public relations, especially at the community level. Their readiness to help with religious, charitable, educational, and civic activities brings credit to the NDUS and is encouraged. However, officers and employees shall comply with applicable federal and state laws, SBHE Policy 611 and related NDUS office and institution policies. At all times, employees shall avoid outside activities that create an excessive demand upon their time and attention, thus depriving the NDUS of their best efforts in fulfilling their job duties or that create a conflict of interest, or an obligation, interest, or distraction that interferes with the independent exercise of judgment in the NDUS' best interest.
5. SBHE members are considered NDUS employees for payroll and tax purposes but may have other full or part-time employment and other professional, civic and personal responsibilities and activities, in addition to their part-time service as SBHE members. Nevertheless, SBHE members must be familiar with and comply with applicable laws governing conflict of interest that apply to SBHE members and should strive to avoid other activities that create an obligation, interest or distraction that interferes with the independent exercise of judgment in the best interest of the NDUS. They should avoid investing in or acquiring a financial interest for their own accounts in any business organization that has a contractual relationship with the NDUS or NDUS institution, or that provides goods or services to the NDUS, if such investment or interest could influence or create the impression of influencing their decisions in the performance of their duties. SBHE members are considered temporary employees as defined in the NDUS Human Resources Policy Manual. Unless specifically stated, the term "employee" used in the SBHE Policy Manual does not include SBHE members.
6. Excluding only *de minimus* contributions, such as purchase of a meal at reasonable value as part of a conference or other event with no conditions attached to such purchase and as permitted under applicable federal and state laws, SBHE members, officers and employees may not accept entertainment, gifts, or personal favors that could influence, or appear to influence, decisions for any person or organization with whom or with which the NDUS or NDUS institution has, or is likely to have, business dealings. Similarly, SBHE members, officers and employees may not accept any other preferential treatment under circumstances that because of their position with the NDUS, the preferential treatment may influence or be perceived as influencing their official conduct. SBHE members, officers and employees may not receive payment or compensation of any kind from any source for NDUS duties and responsibilities, except as authorized under applicable law or NDUS pay policies. Specifically, the acceptance of kickbacks or commissions in any form from vendors, suppliers or others is prohibited.
7. SBHE members, officers and employees who have access to NDUS funds and other assets in any form shall follow the prescribed procedures for recording, handling, and protecting money and other assets as detailed in applicable NDUS procedure manuals or other explanatory materials. An individual who has information concerning possible fraud or dishonesty shall immediately report such information to a superior or to legal counsel.

SBHE members, officers and employees responsible for spending or approving expenditure of NDUS funds or incurring any reimbursable expenses shall comply with all applicable laws

and policies and use good judgment on behalf of the NDUS to ensure that good value is received for every expenditure. NDUS funds and all other assets are for NDUS purposes only and not for personal use or benefit. NDUS or other public equipment, supplies and other property or assets may not be used for private or personal use, except as authorized under SBHE Policy 611.5 or other applicable law or policy.

8. Accurate and reliable records of many kinds are necessary to meet NDUS legal and financial obligations and to manage the affairs of the NDUS. NDUS books and records must reflect in an accurate and timely manner all business transactions. SBHE members, officers and employees responsible for accounting and recordkeeping shall fully disclose and record all assets and liabilities and exercise diligence in enforcing these requirements. SBHE members, officers and employees shall not make or engage in any false record or communication of any kind, whether internal or external, including false expense, attendance, enrollment, financial, or similar reports and statements, or false advertising, deceptive marketing practices, or other misleading representations.
9. SBHE members, officers and employees shall take care to separate their personal roles from their NDUS positions when communicating on matters not involving NDUS business. They may not use NDUS identification, stationery, supplies, and equipment for personal or political matters. When communicating publicly on matters that involve NDUS business, SBHE members, officers and employees may not represent that they speak for the NDUS, unless that is one of their duties or they are otherwise authorized to do so. When dealing with anyone outside the NDUS, including public officials, SBHE members, officers and employees shall take care not to compromise the integrity or damage the reputation of the NDUS or any institution.
10. In all matters involving communication with NDUS students, customers, suppliers, government authorities, the public and others, SBHE members, officers and employees shall endeavor to make complete, accurate, and timely communications and respond promptly and courteously to all proper requests for information and complaints.
11. SBHE members, officers and employees shall comply with applicable laws, regulations and SBHE policies concerning privacy, confidential records, access to open records and records retention.
12. SBHE members, officers and employees shall report suspected violations of this code pursuant to Policy 308.2. Any officer or employee who makes a report in good faith shall be protected against retaliation of any kind; any officer or employee who retaliates or attempts retaliation in response to a good faith report shall be subject to dismissal or other discipline. Failure to report known or suspected violations is a violation of this code and may lead to dismissal or other disciplinary action.
13. Alleged violations of this code involving NDUS officers or employees shall be investigated by the appropriate NDUS officer. All officers and employees shall cooperate in investigations of alleged violations. A violation of this code is cause for dismissal or other disciplinary action, in addition to any criminal or other civil sanctions that apply.

14. The NDUS office and each NDUS institution shall adopt and implement a code of conduct consistent with this code and committee of sponsoring organization of the treadway commission (COSO) standards. NDUS office and institution codes shall include:
 - a. A statement of the organization's values;
 - b. The people or groups of people affected;
 - c. A brief description or list of key behaviors that are accepted and not accepted;
 - d. How to identify and resolve conflicts of interest;
 - e. How to report violations and to whom;
 - f. Consequences of violating the code;
 - g. Consequences of failure to report known or suspected violations; and
 - h. How reports will be investigated.

The NDUS office and each institution shall require that each new employee review the code of conduct and sign a statement certifying the employee has read and agrees to comply with the code. Further, all benefited employees shall annually certify in writing or electronically that they have read and are in compliance with the code of conduct.

Reference(s): SBHE Policy 100.5, 100.6, 603.1, 611, 611.5, 615, Internal Revenue Code 3401(c)

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Policy: 308.2 Required Reports of Violations; Reprisal or Retaliation Prohibited

Effective: July 23, 2020

1. All employees are required to report, orally or in writing, suspected violations of SBHE, NDUS, or institution policy or procedure, or suspected violations of any other applicable federal or state law, regulation, or rule. Such reports may be made to the employee's supervisor, a senior manager or administrator, legal counsel, the NDUS fraud hotline (if the suspected violation regards theft, fraud, or unlawful or improper use of public resources), or the NDUS Compliance Officer. Such reports, if made in good faith, shall be made without fear of reprisal or retaliation, regardless of whether he or she names or describes this policy in the report. No NDUS officer or employee may prevent or interfere with the right of another officer or employee to make a report under this policy, Policy 308.1 or Policy 611.10.
2. SBHE members who have information concerning suspected violations of SBHE, NDUS, or institution policy or procedure, or suspected violations of any other applicable federal or state law, regulation, or rule, or who are uncertain about application or interpretation of any legal requirement should report the matter to the Chancellor or legal counsel.
3. The identity of any employee or SBHE member who submits a good faith report under this policy, whether or not he or she names or describes this policy in the report, shall be protected, and shall not be released to the public, to the fullest extent permitted by law. This section is subject to all relevant state open records statutes or regulations.
4. Prohibited reprisal or retaliation means one or more of the following motivated by, in response to, or because of an employee's good faith report under subsection 1 or 2 of this policy:
 - a. Dismissal, demotion, reprimand or any other disciplinary action or sanction;
 - b. Withholding or reducing a salary increase or employment-related benefit;
 - c. Creation of an unwarranted unsatisfactory performance review or any unwarranted unfavorable reference in a review;
 - d. Transfer or reassignment;
 - e. Denial of a promotion that the employee otherwise would have received; or
 - f. Any other unfavorable treatment in any term or condition of employment or other adverse employment action.
5. As used in this policy, "employee" means any SBHE, NDUS, or institution officer, employee, or contractor, regardless of full- or part-time status, benefit status, or contract status. For the purposes of this policy, SBHE members are not employees.
6. As used in this policy, "good faith report" means information the person making the report

reasonably believes to be true, including information that could lead a reasonable person to conclude that a report should be made according to Policy 308.1 or Policy 611.10 or other SBHE, institution or system policy or procedure or applicable federal or state law, regulation or rule.

7. Retaliation prohibited by Title IX of the Education Amendments of 1972 and the related regulations shall be subject to the provisions of Policy 520 in the event of any conflict between this Policy and Policy 520.
8. The NDUS office and each institution shall adopt and implement policies and procedures consistent with this policy, or which are more protective of reports of suspected violations.

References: N.D.C.C. § 34-11.1-04; N.D.C.C. § 34-01-20; SBHE Policies 308.1, 611.10.

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Policy: 308.3 Political Activities

Effective: June 29, 2021

1. The State Board of Higher Education recognizes the importance of civic engagement, and respects and supports the rights of NDUS employees (including officers, faculty members, and staff) to engage in political expression and activities without interference by the SBHE, NDUS, or NDUS institutions. This policy is not meant to limit such rights in any way, and is instead meant solely to ensure compliance with state and federal laws limiting the ability of state entities to engage in political activities, specifically including the expenditure of state funds and making a political endorsement. As a result, nothing in this policy should be read to limit the First Amendment or other political rights of off-duty NDUS employees, and this policy must be read narrowly to avoid infringing on those rights. This policy covers only NDUS employees, and does not, by its terms, govern students or student organizations.
2. No NDUS employee shall face discipline or retaliation related to off-duty political activity which complies with this policy, and no NDUS employee may be prohibited from engaging in off-duty political activity which complies with this policy. The SBHE and NDUS neither discourage nor encourage off-duty political activity by employees. No employee may be asked or coerced to engage in any kind of political activity, including monetary contribution, while on duty or by any person with authority over their employment.
3. Systemwide and institution-level organizations of faculty and staff employees may engage in political activities, including advocating on issues of faculty or staff interest on- or off-campus, including through testifying or advocating before the legislature or other government entities. Similarly, such organizations may communicate with their constituents using NDUS communications systems, including email, regarding such matters, provided that the communication makes clear on whose behalf the email is being sent and requests to opt out of such communications by individual faculty and staff members are respected. Such advocacy shall be protected by academic freedom and public employee free speech, and may not be the basis for discipline.
4. Federal and state law strictly limits the extent to which state entities, such as the SBHE and the NDUS (and its institutions) may participate in political activities. As a result, neither the SBHE nor any NDUS office, institution, organization, council, board, committee, department, or other body may officially participate in, intervene (whether directly or indirectly) in favor or against, or support, oppose, or otherwise attempt to influence legislation or any political campaign of any candidate for public office or issue. Similarly, no institution's property or on-duty employees may be used for any political purpose, as that term is used in N.D.C.C. § 16.1-10-02, except as set forth in this policy.
5. NDUS institutions may offer their facilities for rent or use for political activities provided that such facilities are currently and routinely made available for the use of outside groups,

and (a) the facility is provided on the same terms and conditions governing the use for other outside groups, and (b) the facility is made equally available to all political candidates, political action committees, parties, or issue-related groups.

6. Because the NDUS and its institutions may not officially engage in political activities, the following guidelines apply to political activities undertaken by NDUS officers, employees, faculty members and staff in order to avoid creating the appearance of support or opposition for a political campaign, political party, or issue:
 - a. The name, marks, and seal of any institution may not be used in any political material (including written materials (including e-mail), orally, or on social media) supporting or opposing any candidate for political office, political party or political committee, including as part of a solicitation of funds, except used as part of a group's name or as set forth in subparagraph 5(c) below.
 - b. Official work uniforms may not be worn to political gatherings, rallies, or demonstrations; neither official work uniforms nor official institution identification may be authorized by an NDUS institution for use in promotional materials for any political candidate, party, or issue. Nothing in this policy shall be read to restrict the wearing or use of casual clothing bearing institution logos or slogans, even if issued by an institution.
 - c. NDUS employees may not represent, orally or in writing, that they are acting on behalf of any NDUS institution when expressing support for or opposition to any political candidate, party, or issue, and must take steps to ensure that an observer would not interpret any such expression of support or opposition as authorized by any NDUS institution. NDUS or institution titles should be used for introductory or identification purposes only.
 - d. No NDUS office address, phone system, server, or other electronic system, including e-mail, may be used in association with a political candidate, political action committee, party, or issue. NDUS funds, equipment, or supplies, regardless of funding source, may not be used on behalf of or in opposition to any political candidate, party, or issue. This policy shall not prohibit the use of free wireless internet or other services provided to the public by off-duty employees or other persons for political purposes.
 - e. The official internet and social media presence of an NDUS institution may not be used on behalf of any political candidate, political action committee, party, or issue. This includes web pages and social media accounts created, sponsored, or operated by NDUS institutions for all official teams, activities, organizations, and clubs. Nothing in this policy restricts faculty or staff organizations from using their own internet or social media presence to engage in political activities or on behalf of any political candidate, political action committee, party or issue.
7. Notwithstanding the foregoing, nothing in this policy should be read to prevent employees from receiving a stipend for, or having as a part of their duties, advising a student

organization with or without a political focus, even if part of that work results in the promotion or amplification of a political message by an on-duty employee. The SBHE recognizes that such activities by employees are part of the support offered to students by NDUS institutions. Similarly, attendance by on-duty employees at partisan or politically-oriented events at an institution or in the community does not constitute a violation of this policy if such attendance is part of their job duties (such as managing logistics) or deemed important for fostering strong campus or community relationships.

8. Each institution shall create, maintain, and enforce a political activities policy which complies with SBHE policies and state and federal law, yet does not infringe on the First Amendment rights to speech and assembly as related to political activities.
9. Members of the SBHE shall be subject to the provisions of this policy, except that all references to the NDUS or an institution shall be interpreted as referring to the SBHE.
10. Nothing in this Section shall prohibit the SBHE, the NDUS, or its member institutions from taking an official position or making an official statement regarding proposed, draft, or pending legislation or regulation which directly affect the SBHE, the NDUS, or a member institution. Pursuant to N.D.C.C. § 16.1-10-02, the SBHE, the NDUS, or its member institutions may not undertake activities in support of or in opposition to a statewide initiated measure, a constitutional amendment or measure, a political subdivision ballot measure, or the election or nomination of a candidate to public office. Notwithstanding, factual information may be presented solely for the purpose of educating voters if the information does not advocate for or against or otherwise reflect a position on the adoption or rejection of a ballot question.

References: N.D.C.C. § 16.1-10-02; Internal Revenue Code § 501(c)(3); SBHE Policies 308.1, 308.2.

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Policy: 308.4 Conflict of Interest

Effective: December 3, 2019

1. SBHE members, NDUS officials and all NDUS employees shall endeavor to remain free from the influence of, or appearance of, any conflicting interest when acting on behalf of the SBHE, NDUS or any institution.
 - a. A conflict of interest arises when an individual is knowingly in a position to derive personal benefit from actions or decisions made in their official capacity.
 - b. Actual conflicts of interest include any known interests and activities of the individual as well that of the individual's spouse, significant other, or immediate family member. Such interests may include, but are not limited to, employment by, ownership of, or service on the board of directors of an organization that has or may have relationships with the SBHE or an NDUS institution.
 - c. An appearance of a conflict of interest includes any situation where the known circumstances could give rise to a perception of impropriety or self-dealing, but which does not otherwise meet the definitions of this paragraph.

Interests covered by this policy are not limited to financial interests.

2. Application of Policy
 - a. In the event of an actual conflict of interest, or the appearance of a conflict of interest, the conflicted individual must not be involved in the activity or decision giving rise to the conflict of interest, except with respect to SBHE members. Division heads, institutional chief executive officers, and the Chancellor, as applicable, shall ensure that this policy and institutional conflict of interest policies are followed, and that conflicted individuals are screened from participating in activities or decisions where an actual or apparent conflict is present.
 - b. SBHE members have a duty to participate in and vote on any matter before the SBHE unless they are disqualified pursuant to N.D.C.C. § 44-04-22 (providing that board members may not participate when they have a known "direct and substantial personal or pecuniary interest" in the matter at hand), and all conflicts of interest must be disclosed in order for the member to be disqualified. Nothing in this policy requires any SBHE member to violate an ethical obligation imposed by another state or federal entity; however, SBHE members must comply with N.D.C.C. § 44-04-22's requirements for disqualification. The SBHE may waive a conflict of interest which would otherwise require disqualification on motion and majority vote. If an SBHE

member is present and is not disqualified, yet abstain from a vote, his or her vote shall be cast with the majority, if one exists, by rule.

3. Specifically, prohibited interests and activities include, but are not limited to the following:
 - a. An officer of the NDUS or SBHE member authorized to sell or lease any property or make any contract in the his or her official capacity is subject to the provisions of N.D.C.C. § 12.1-13-03 and may not be interested in any such sale, lease or contract.
 - b. Neither NDUS employees nor SBHE members may hold an interest in a public construction or repair contract.
 - c. Neither NDUS employees nor SBHE members may have an interest in any contract involving the expenditure of public or institutional funds entered into by the institution that the employee serves or by the SBHE unless:
 - i. N.D.C.C. § 12.1-13-03 does not apply; and
 - ii. The contract is approved by the institution's chief financial officer or, if the employee in question is the chief financial officer or chief executive officer of an institution or an officer of the SBHE, by the SBHE, following full disclosure of the employee's interest.
 - d. All employees involved in projects receiving federal funds shall consult applicable federal laws and regulations and comply with conflict of interest rules which may govern federal grants or other sponsored agreements.
4. On an annual basis, all SBHE members, NDUS chancellor and vice-chancellors, and institution presidents shall complete or update a conflict of interest disclosure form prepared by the NDUS Office of Audit and Compliance no later than the beginning of the fiscal year. The disclosure shall be updated as new interests may appear.
5. An officer or other employee who violates this policy is subject to dismissal or other disciplinary action.
6. Each institution shall adopt policies and procedures implementing this policy, as applicable, which may not be less restrictive than this policy.

Reference(s): N.D.C.C. § 12.1-13-03

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Policy: 310.1 Board Member Responsibilities

Effective: April 25, 2019

A SBHE member shall:

1. Be a link between the SBHE and the public which it serves.
2. At all times conform to and advocate the SBHE beliefs and core values.
3. Help build and sustain an atmosphere of respect, openness, civility and partnerships in all relationships with fellow SBHE members, the Chancellor and NDUS staff, and the presidents, faculty and staff of each institution of higher education in North Dakota.
4. Through service on the SBHE, acquire a reasonable level of knowledge of:
 - a. The mission of each institution of higher education in the NDUS and how the institution, through its administration and faculty, plans to achieve its mission;
 - b. The traditional organization and governance structure of an associate, baccalaureate, and graduate degree-granting institution of higher education;
 - c. The relationship of NDUS institutions with other institutions of higher learning and other educational systems within North Dakota;
 - d. The competitive position of NDUS institutions in the regional and national marketplace;
 - e. The provisions of state law governing the SBHE and its activities;
 - f. The internal and external forces which affect the environment in which higher education and the NDUS operate; and
 - g. The structural relationship among the governor, the legislature, the Chancellor, the NDUS office, the NDUS institutions and the SBHE.
5. Be an advocate of quality, efficient, and effective higher education in North Dakota by:
 - a. Assisting in the development and ongoing review of a clear and concise SBHE strategic plan, including the goals and objectives, for the NDUS;
 - b. Assisting in establishing appropriate measures to monitor and assess achievement of the goals;

- c. Assisting in evaluating SBHE performance, and the performance of the Chancellor;
 - d. Participating responsibly in board meetings;
 - e. Devoting the time necessary to carry a fair share of SBHE leadership responsibility;
 - f. Assisting in establishing effective policies of governance; and
 - g. Taking part in reasonable amounts of professional development.
6. Represent the people of North Dakota and be an advocate for the NDUS without special regard to a particular institution, interest, political affiliation, community, or constituency.

Reference(s): SBHE Policy 304.1

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Policy: 310.2 Board Officers; Officer Responsibilities; Elections

Effective: April 25, 2019

The officers of the SBHE shall be a chair and a vice chair.

1. The chair shall be elected by the SBHE from its members and shall serve for a term of one year or until a successor is elected and qualified. No SBHE member shall be eligible to serve more than two consecutive terms as chair. The chair has no authority to make decisions or to establish policy on behalf of the SBHE except as specifically delegated the authority to do so by the SBHE. The SBHE has delegated the following authority to the chair:
 - a. The chair or the Chancellor, pursuant to the authority provided to the Chancellor in SBHE Policy 304.1, shall be the spokesperson of and represent the SBHE by explaining, defending, advocating, and/or announcing SBHE-stated and –approved positions.
 - b. As elected leader of the SBHE, the chair has the ultimate responsibility for assuring the beliefs and core values adopted by the SBHE are known to all SBHE members and that the SBHE strives to uphold these values at all times.
 - c. The chair shall be responsible for the efficient operation of the SBHE including a SBHE-established planning and action cycle.
 - d. The chair shall ensure that new SBHE members are informed of their responsibilities and oriented to the operations of the SBHE. The chair, with the Chancellor’s assistance, shall arrange for an orientation program after a new member is appointed. The new member orientation program shall include opportunities for new members to become familiar with NDUS institutions and programs, such as campus tours or other events scheduled with SBHE meetings, new member visits to campuses, an on-line tour or other suitable means.
 - e. The chair shall lead SBHE meetings by exercising all commonly accepted responsibilities of that position.
 - f. The chair may call special meetings of the SBHE pursuant to the provisions of the SBHE Policies.
 - g. The chair shall communicate directly and consult with other SBHE members and the Chancellor as frequently as necessary and consistent with applicable open meetings and open records laws, to assure the SBHE members and the Chancellor are kept informed on issues relevant to the SBHE duties and responsibilities.

- h. The chair may appoint ad hoc committees to advise the SBHE.
-
- 2. The vice chair shall be elected by the SBHE from its membership and shall serve for a term of one year or until a successor is elected and qualified. The vice chair shall act as the chair in the absence of the chair and shall have such other duties, powers, and responsibilities as may be assigned by the SBHE or the chair. If the office of the chair becomes vacant during the elected term, the vice chair shall perform the duties of the chair as acting chair until a new chair is elected to fill the vacant chair position and serve the balance of the unexpired term.
 - 3. The SBHE shall appoint an executive secretary to serve at the pleasure of the SBHE. The executive secretary shall be responsible to the Chancellor and shall be charged with the responsibility of recording, maintaining, and distributing a record of all the SBHE meetings and performing such other duties as the SBHE or the Chancellor may direct.
 - 4. The election of officers of the SBHE shall be held not later than May each year. Nominations may be made and voting conducted at the same meeting. The terms of office shall begin July first. If an office is vacated, an election to fill the unexpired term shall be held at the next regular meeting of the SBHE.

**NORTH DAKOTA
STATE BOARD OF HIGHER EDUCATION
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Policy: 311 Public Records

Effective: February 23, 2022

1. **Policy.** Except as otherwise specifically provided by law, all records of the State Board of Higher Education, the North Dakota University System, and its institutions are public records and should be open and accessible to inspection by the public.
2. **FERPA-Protected Records.** Student education records are confidential and access to those records is restricted according to the Family Education Rights and Privacy Act of 1974, as amended (FERPA). Pursuant to FERPA and applicable North Dakota law and policy, each institution shall, at minimum:
 - a. Adopt a policy as required by 34 CFR Section 99.7;
 - b. Comply with the requirements of SBHE Policy 503.2;
 - c. Notify students currently in attendance of their rights under FERPA no less frequently than annually;
 - b. Except as provided under FERPA and 34 CFR Section 99.31, relating to conditions under which personally identifiable information may be disclosed without consent, obtain a signed and dated written consent of the student before it discloses personally identifiable information from the students education records;
 - c. Maintain a record of each request for access to and each disclosure of student personally identifiable information from the education records of each student as required by 34 CFR Section 99.32;
 - d. Ensure that all vendors and state agencies with access to student personally identifiable information maintain records regarding access, use, and disclosure of such records;
 - e. Maintain copies of all agreements entered pursuant to FERPA regarding the disclosure of student personally identifiable information.
 - f. Provide the notice required by 34 CFR Section 99.37 concerning disclosure of directory information;
 - g. Adopt procedures implementing FERPA provisions governing release and transfer of student disciplinary records. Consistent with FERPA, student disciplinary records are

confidential and may be released only as permitted under FERPA and implementing institution procedures; and

- h. Comply with all other requirements of FERPA and applicable regulations.

The Chancellor shall adopt a procedure establishing a uniform, systemwide definition of directory information, which must be incorporated in required institution policies and apply to the system office.

Records of former students, including deceased former students, shall remain confidential for as long as the records are maintained. Such records may only be disclosed to the student or at the student's written, signed request, except those records of deceased former students may be released or disclosed at the request of a parent, personal representative, or other qualified representative of the student's estate, or pursuant to a court order or subpoena. NDUS Core Technology Services (CTS) will maintain all student records for a minimum of five years after graduation, and will maintain core student records, such as academic scores and attendance records, indefinitely, unless a campus provides alternative instructions for records relating to its former students.

- 3. Access to and disclosure of campus police records is governed by N.D.C.C. Section 44-04-18.7. Accordingly, active criminal intelligence information and active criminal investigative information are exempt from the open records law. Each campus law enforcement agency shall maintain a list of all files containing active criminal intelligence and investigative information which have been in existence for more than one year, which shall be subject to disclosure under N.D.C.C. Section 44-04-18.
 - a. Campus police records which are open and must be disclosed under Section 44-04-18.7 include:
 - i. Arrestee description, including name, date of birth, address, race, sex, physical description, and occupation of the arrestee;
 - ii. Facts concerning the arrest;
 - iii. Conviction information;
 - iv. Disposition of all warrants;
 - v. A chronological list of incidents, including initial offense report information;
 - vi. A crime summary, including a departmental summary of crimes reported and public calls for service;
 - vii. Radio log;
 - viii. General registers; and

- ix. Arrestee photograph, if release will not adversely affect a criminal investigation.

Notwithstanding the foregoing, campus police records under this section shall not include student personally identifiable information obtained from education records protected by FERPA, and to the extent that information contained within campus police records is obtained from FERPA-protected records, that information is confidential and may not be released except as permitted by FERPA.

- b. Law enforcement records and files concerning a child, as that term is defined at N.D.C.C. ch. 27-20, shall be kept separate from the records and files of adults and shall not be open to public inspection and may not be disclosed except according to the provisions of N.D.C.C. ch. 27-20.
 - c. Records of undercover law enforcement officers are confidential and exempt from the open records law as provided by N.D.C.C. Section 44-04-18.3.
4. **Applications for Employment.** Documents and information submitted in response to a posted position for a vacant position (“Application Materials”) are exempt from public disclosure, except as follows:
- a. If fewer than three persons submit Application Materials by the date the job posting closes, then all submitted Application Materials shall be open to the public.
 - b. If more than three persons submit Application Materials in response to a posted position, then the hiring authority shall designate three or more finalists prior to making a hiring decision. Upon the designation of finalists, only the Application Materials submitted by the finalists shall be open to the public.
 - c. Prior to the designation of finalists, information contained in Application Materials may be utilized for the purposes of evaluating candidates for the posted position, including checking references, verifying eligibility, and similar purposes, even if doing so reveals identifying information about an applicant.
 - d. Some or all identifying information contained in an applicant’s Application Materials may be disclosed with the written consent of the applicant.

This Section constitutes the policy of the State Board of Higher Education as referenced in N.D.C.C. § 44-04-18.27.

5. **Personnel Records.** Personnel records are public records open to inspection by the public, except as follows:
- a. Personnel records that relate to an employee who is employed either in a federal work-study program or only as a result of their status as a student are confidential pursuant to FERPA.

- b. Employee medical records and employee assistance program records are confidential, may not be placed in an employee's personnel file, and may not be released without the written consent of the employee or as otherwise provided by law. Records within the personnel file which contain medical information are exempt.
 - c. Personal information, as defined in section 44-04-18.1 (2), including a person's home address, home telephone number, photograph, medical information, motor vehicle operator's identification number, payroll deduction information, the name, address, phone number, date of birth of any dependent or emergency contact, any credit, debit, or electronic fund transfer card number, and any account number at a bank or other financial institution, are exempt from the open records law and may be released only as required by law, pursuant to SBHE policy, or with the employee's written consent.
 - d. The Chancellor shall adopt a procedure establishing a uniform, systemwide procedure concerning release of exempt personal information, which must be incorporated in required institution procedures and apply to the system office. Placement of documents in an employee's personnel file is governed by N.D.C.C. Section 54-06-21.
6. **Internal Auditors' Records.** The following provisions govern the records of an internal auditor employed by the SBHE, NDUS, or institution.
- a. "Working papers" include records kept by an internal auditor of the procedures applied, the tests performed, the information obtained, draft audit reports, and the pertinent conclusions reached in the audit engagement.
 - b. The working papers of an internal auditor employed by the SBHE or an institution related to an ongoing audit are exempt from public disclosure while the audit is ongoing.
 - c. Draft audit reports of an internal auditor are exempt from public disclosure until the final audit report is released by the internal auditor.
 - d. Upon the release of the final audit report, all drafts and working papers are open to the public unless designated as confidential by the internal auditor. The designation of confidentiality must include the reason for the confidentiality and the approximate date when the working papers will be made public. Information or records included in working papers which are otherwise exempt or confidential under other federal or state law are not made open to the public by their inclusion in working papers.
 - e. This Policy applies only to formal audits of internal auditors, and not to other work performed by the internal auditors in the course of their employment.

7. **Fundraising and Donor Records.** Records related to donors or prospective donors are exempt from public disclosure, including the name, address, telephone number, electronic mail address, estate planning information, tax record or financial information, and other personal information and correspondence received or retained by the SBHE, NDUS, or an institution or their agents, including a nonprofit affiliate under SBHE Policy 340.2.
- a. For the purposes of this section, “financial information” includes data that provides details regarding a gift, a payment schedule of a gift, the form of a gift, or the specific amount of a gift made by a donor.
 - b. In order to comply with this section, documents submitted to the Challenge Grant Review Committee in support of a request for matching funds shall be redacted by the submitting institution or the NDUS Office prior to submission to the Committee.
8. **Other Exempt or Confidential Records.** Additional records exempt from or confidential under the open records law include (without limitation):
- a. Medical information or records in the possession of the SBHE, NDUS, or an institution other than in a personnel record, including but not limited to patient records at student health services and university system clinics (N.D.C.C. § 44-04-18.16; N.D.C.C. § 44-04-18.32).
 - b. Information pertaining to an employee's retirement account balance, disability applications and benefits, and surviving spouse applications and benefits under N.D.C.C. ch. 54-52 or a plan adopted by the board (N.D.C.C. § 54-52-26);
 - c. Trade secret, proprietary, commercial and financial information (N.D.C.C. § 44-04-18.4 and SBHE Policy 611.6), including university research records and personally identifiable study information;
 - d. Computer software programs or components for which a copyright, patent or license is acquired (N.D.C.C. § 44-04-18.5);
 - e. Attorney work product (N.D.C.C. § 44-04-19.1(6)) and active litigation records (N.D.C.C. § 44-04-19.1(12));
 - f. Complaints submitted to the NDUS Office of Compliance and Ethics or an institution official, for the shorter of 75 days from the date of submission, or the conclusion of the investigation into the Complaint (N.D.C.C. § 44-04-18.1(6)).
 - g. Social security numbers, which are confidential under N.D.C.C. § 44-04-28; and
 - h. Title IX records at state universities and colleges (N.D.C.C. § 44-04-18.28).

9. **Disclosure of Public Records.** Copies of records that are not confidential or exempt from public disclosure shall be provided upon request.
- a. Records must only be provided in the form in which they are stored. If records are stored electronically, only an electronic copy may be provided, subject to providing a physical copy if a requestor does not have access to means to receive and review the electronic copy.
 - b. SBHE, NDUS, and institution records need only be provided in the form in which they are kept, and employees are not required to engage in summary, collation, collection, or preparation of data except as required to provide reasonable access the public record or data.
 - c. **Fees.** The NDUS (for itself and for the SBHE) may establish a fee schedule to cover the costs of locating, reviewing, copying, redacting, and producing records pursuant to this policy and any applicable NDUS or institution procedures, subject to the following limitations set forth in N.D.C.C. § 44-04-18:
 - i. The fee for standard paper copies may not exceed twenty-five cents per copy. No fee may be assessed for providing copies of electronic documents.
 - ii. A fee not to exceed twenty-five dollars per hour, excluding the first hour, may be charged per request for locating records.
 - iii. A fee not to exceed twenty-five dollars per hour for excising confidential or exempt material if excising the material requires more than one hour.
 - iv. If a request is made for access to a record on a backup an additional reasonable fee may be charged to cover costs attributable to the use of information technology resources.

The NDUS and institutions may waive any fees in the discretion of the Chancellor or institutional chief executive officer or their designee for this purpose. Prior to beginning any review for which a fee may be charged, the NDUS or institution must provide the requester with an estimate of such fee and request approval or pre-payment.

- d. **Legal Review.** The SBHE, NDUS, and institutions should seek legal counsel from the appropriate assigned attorney or other individual who has received training on proper redaction and production procedures prior to releasing information or records which may contain exempt or confidential information.
- e. **Referral.** NDUS entities may not refer a request for the disclosure of records to another entity within the NDUS. If an NDUS entity does not have records, they may respond that they have no responsive records to the request. NDUS entities, may, but are not required to, provide information to a requester about what entity may have more records related to the request; however, providing such information does not eliminate the requirement to respond to the request.

10. Records which are designated as either “exempt” or “confidential” by N.D.C.C. § 44-04-18, *et seq.*, may only be released to the public as permitted by that statute or SBHE Policy.

- a. The following exempt records may only be released to the public by a roll call vote of the SBHE:
 - i. Exempt recordings of executive sessions of SBHE or SBHE committee meetings, including to SBHE members and NDUS employees.
 - ii. Attorney work product related to an active litigation matter or administrative proceeding, or which is prepared in imminent anticipation of the same, except as necessary to the litigation matter.
 - iii. Otherwise-exempt Application Materials submitted in response to a posted position in the NDUS Office or for the office of Chancellor or institution chief executive officer.
 - iv. Exempt personal information of SBHE members, the Chancellor, or an institution chief executive officer, except as necessary to carry out the business of the North Dakota University System, including but not limited to payroll or reimbursement.
- b. The SBHE Audit Committee shall have the discretion to release exempt complaints received, by whatever means, by the Office of Internal Audit or the Office of Compliance and Ethics, except as set forth in this policy.
- c. Unless otherwise provided by this Policy, if an exempt record is maintained by an institution under the control of the SBHE, the institution’s chief executive officer may determine whether to disclose the record to the public.
- d. Unless otherwise provided by this Policy, if an exempt record is maintained by the NDUS Office or by the NDUS Office on the SBHE’s behalf, the Chancellor may determine whether to disclose the record to the public.

11. The Chancellor and institutions shall adopt procedures to implement a uniform process for responding to requests for the disclosure of records under this Policy.

12. The NDUS Office and each institution shall maintain a continuing program for the management of records as required by N.D.C.C. ch. 54-46 using the North Dakota Colleges/Universities General Records Retention Schedule maintained and updated by the ND Information Technology Department and as supplemented by institution-specific retention schedules maintained by individual institutions. Records received or created by Board members are governed by the NDUS Office program.

13. NDUS Core Technologies Services (CTS) retains employee email accounts for two years as required by statute, unless a different time is required by a litigation hold. Campuses shall be responsible for ensuring that any and all email communications that are subject to a different retention schedule are retained as required.

14. The North Dakota University System (NDUS) and its institutions shall immediately implement litigation hold procedures when they are involved in litigation, or it is reasonably foreseen that they may become involved in litigation. A litigation hold is the process of identifying and preserving materials that may be relevant to the litigation, including documents, electronic information, and other items. The Chancellor shall adopt a procedure implementing the litigation hold process.
15. The Chancellor shall adopt a procedure implementing provisions of the Financial Services Modernization Act of 1999 (Gramm Leach Bliley Act).

References: 15 U.S.C. § 6801; 20 U.S.C. § 1232g; 34 C.F.R. Part 99; N.D.C.C. ch. 15-10; N.D.C.C. ch. 44-04; N.D.C.C. § 54-06-21; N.D.C.C. ch. 54-46; SBHE Policy 503.2.

**NORTH DAKOTA
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Policy: 330 Policy Introduction, Amendment, Passage

Effective: March 28, 2018

1. The Chancellor, a SBHE member, the faculty advisor or the staff advisor may propose a new policy or policy amendment by requesting that it be placed on the agenda for an upcoming SBHE meeting.
 - a. A new policy or policy amendment shall comply with the SBHE drafting manual and formatting template.
2. The SBHE legal counsel will review or draft the proposed policy or amendment to be considered by the SBHE.
3. The SBHE generally will conduct both a first reading and a second reading of any proposed policy or amendment.
 - a. First reading: During the first reading, the SBHE will obtain a summary of the proposed policy or amendment. The SBHE will vote on whether to approve the proposed policy or amendment for a second reading. Upon such approval, the proposed policy or amendment will be placed on the agenda of a future SBHE meeting for the second reading.
 - b. Second reading: During the second reading, the SBHE may provide an opportunity for interested parties to comment on the proposed policy or amendment. After any necessary SBHE discussion, the SBHE may take final action on the proposed policy or amendment.
4. The SBHE may waive a second reading of a proposed policy or amendment by a majority vote supporting the waiver.
5. At any time before final action on a proposed policy or amendment, SBHE members may propose and consider amendments to the proposed policy or amendment.
6. If the SBHE adopts a proposed policy or amendment, the new policy or amendment will take effect immediately upon SBHE approval, unless otherwise specified by SBHE motion.
7. If the SBHE legal counsel determines that a proposed revision of an existing policy is minor in nature, is necessary to ensure consistency or accuracy, and does not substantively change the policy, the SBHE legal counsel may make the proposed revision without action taken by the SBHE. Any revision made under this paragraph must be reported to the SBHE within thirty days of the change.

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Policy: 331 Approval of College and University Constitutions by the Board

Effective: January 24, 2019

SBHE approval is required of institution constitutions and amendments. Each institution shall establish procedures governing adoption of constitutions and amendments. Institution procedures must include approval by the institution president. Following that approval, the president shall submit the proposed constitution or amendment to the Chancellor, who shall forward the document with a recommendation to the SBHE. Upon request of the institution faculty governance structure, the Chancellor shall also forward to the SBHE for its consideration any provision not approved by the institution president.

References: N.D. Const. Art. VIII, § 6(6)(b); N.D.C.C. §§ 15-10-11, 15-10-13, 15-10-17(3) and (5).

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Policy: 340.1 State Forester

Effective: January 24, 2019

The SBHE delegates to the NDSU president the authority and responsibility to appoint the state forester. The state forester must have those minimum qualifications established by law and shall have those duties assigned by law and such additional duties as are delegated by the NDSU president.

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Policy: 340.2 Nonprofit Affiliates

Effective: March 26, 2020

1. The purpose of this policy is to promote and strengthen the operations of an institution's affiliated foundations, alumni associations, athletic clubs and other related nonprofit affiliates. The following provisions set forth a framework that enables and enhances a sound and mutually supportive institution-nonprofit affiliate relationship. The institution- nonprofit affiliate relationship is derived from a shared interest in the institution's development. An institution's participation in and support of the nonprofit affiliate's operations is, therefore, appropriate and desirable.
2. For the purposes of this policy, a nonprofit affiliate is defined as an independent and legally separate nonprofit organization established only to support and advance the mission and objectives of a NDUS institution or related institutional functions, including an athletics booster organization for which an institution is ultimately responsible or accountable under athletic association or conference rules.
3. A nonprofit affiliate is a private legal entity separate from the institution and must be governed accordingly to protect the nonprofit affiliate's private, independent status. However, because the SBHE is responsible for ensuring the integrity and reputation of the NDUS, it must be assured of the manner in which any nonprofit affiliate will operate. Therefore, each institution and each nonprofit affiliate shall negotiate and maintain a written operating agreement. The agreement must include:
 - a. A description of the services and benefits the institution and nonprofit affiliate provide each other and any payments made, including use of institution and nonprofit affiliate facilities, equipment, or employees by the other party or payments by one party to the other or to the other party's employees;
 - b. A description of reporting relationships and appointing authority for all employees employed by both a nonprofit affiliate and institution and employees employed by one entity with assigned duties and responsibilities to the other;
 - c. A description of any government functions delegated to the nonprofit affiliate and the nonprofit affiliate's acknowledgment and agreement that the institution retains ultimate authority regarding the delegated government functions. If functions are delegated to a nonprofit affiliate, the nonprofit affiliate shall comply with applicable federal or state laws, other SBHE policies specifically identified in the operating agreement, and governing athletic association, athletic conference or other athletic organization rules applicable to these enumerated nonprofit affiliate activities;

- d. An acknowledgment that the nonprofit affiliate will not have a mission or purpose in conflict with the strategic plan of the affiliated institution or SBHE;
 - e. How gifts, grants, donations and endowments are accepted and accounted for, including circumstances under which institution approval is required;
 - f. The nonprofit affiliate's policies for investment and spending;
 - g. The terms and conditions that govern any joint fundraising efforts and fundraising for the institution's capital projects, including language requiring SBHE approval to begin a formal fundraising campaign for new building construction, major renovations, or major building additions, as required by SBHE Policy 902.1;
 - h. A provision governing access to, disclosure, security and custodial responsibility for confidential information;
 - i. A provision acknowledging application of North Dakota's open records and meetings laws to the nonprofit affiliate's operations, including the exemption of fundraising and donor records as outlined in N.D.C.C. 44-04-18.15;
 - j. A requirement and mechanism for nonprofit affiliate disclosure, reporting and accounting relating to any intellectual property assigned by the institution to the nonprofit affiliate under SBHE Policy 611.2, including provisions requiring that the nonprofit affiliate report to the institution regarding patents and patent applications, licensing and licensing agreements and other or additional developments and improvements;
 - k. A provision governing use of the institution's name, trademark or other intellectual property by the nonprofit affiliate;
 - l. A provision that requires the nonprofit affiliate adopt a conflict of interest policy for the nonprofit affiliate's governing body and all staffs of the respective nonprofit affiliate; and
 - m. A requirement that the affiliated institution's president or president's designee shall be an ex officio non-voting member of the nonprofit affiliate's governing board, except where there is a requirement that the president or president's designee serve as a voting member as part of the nonprofit affiliate's articles of incorporation.
4. Agreements shall be reviewed annually by the institution and the nonprofit affiliate, and updated as necessary. In addition, new or updated agreements shall be reviewed by institution or NDUS legal counsel and a copy of the most recent agreement shall be filed with the Chancellor or the Chancellor's designee.
 5. Nonprofit affiliates that meet the criteria in (a) or (b) below are required to provide the institution with GAAP-compliant financial statements, including separately reported current

assets, noncurrent assets, current liabilities and noncurrent liabilities on the face of the financial statements and an annual GAAP audit of the nonprofit affiliate.

- a. For all entities whose balances will be presented as discretely presented component units, as determined by GASB 39, in the current fiscal year's NDUS annual financial report, the audited financial statements and audit report must be submitted by September 15th of the following fiscal year.
- b. For all other related organizations that are not discretely presented component units presented in the current fiscal year's NDUS annual financial report and who meet both of the following criteria for the previous fiscal year, the audited financial statements and audit report must be submitted by October 31st of the following fiscal year.
 - i. total assets exceeding \$1 million and
 - ii. total program expenses exceeding \$100,000.

A draft of the audited financial statements and audit report pending nonprofit affiliate board approval will be considered in compliance if submitted by the deadlines set forth in (a) and (b) above. The nonprofit affiliate will notify the institution when board approval is received and will submit a final copy at that time to the institution.

6. Institution presidents shall inform the Chancellor of concerns regarding the nonprofit affiliate's activities that they are not able to first informally resolve on their own. Institution presidents shall promptly report to the Chancellor any breach of an agreement or failure on the part of the nonprofit affiliate's officers or employees to adhere to appropriate standards relevant to the agreement.
7. Nonprofit affiliate officers shall inform the president of their affiliated institution regarding any breach of an agreement or failure on the part of institution officers to adhere to appropriate standards relevant to the agreement. Further, nonprofit affiliate officers shall notify the president of their affiliated institution of significant events that could have a negative impact on the institution or SBHE, including:
 - a. Violations of the nonprofit affiliate's conflict of interest policy referenced in subparagraph 3(l);
 - b. Litigation where the nonprofit affiliate is a party;
 - c. Qualified opinions issued by external accountants of the nonprofit affiliate's finances;
 - d. Investigations or audits of the nonprofit affiliate by a government entity;
 - e. Changes in the nonprofit affiliate's tax status; and
 - f. Breaches of the nonprofit affiliate's IT security.

8. The Chancellor shall take reasonable and appropriate action responding to reports regarding the nonprofit affiliate, which may include informal discussion with interested parties, a request or recommendation to the parties, a report to the SBHE, or recommendation for SBHE action.

Reference: N.D.C.C. § 44-04-18.15; SBHE Policies 611.2, 902.1.

**NORTH DAKOTA
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Policy: 350.1 State Board of Agricultural Research and Education

Effective: May 16, 2012

1. The State Board of Agricultural Research and Education (SBARE) is constituted pursuant to N.D.C.C. 4-05.1. The SBHE shall make appointments to SBARE in accordance with that chapter.
2. Subject to provisions of the North Dakota Constitution granting to the SBHE full control over and supervision of NDSU and the agricultural experiment station and policies of the SBHE, the SBHE invests SBARE with the responsibilities set forth below for budgeting, supervision, and policy-making responsibilities associated with the agricultural experiment station and extension service. In discharging its statutory responsibilities, SBARE shall:
 - a. In concert with the experiment station director, extension service director and the NDSU vice president for agriculture and president and subject to guidelines and procedures established by the SBHE and Chancellor, develop an annual budget and a biennial budget request for the operation of the experiment station and extension service. The NDSU president and SBARE chairman shall work in concert to submit a report and biennial budget request to the SBHE in each even-numbered year according to a timeline established by the Chancellor;
 - b. Develop ongoing strategies for, and make recommendations to the experiment station director, extension service director, NDSU vice president for agriculture and president, Chancellor and SBHE concerning the provision of research solutions to negate adverse economic impacts on crops and livestock produced in this state;
 - c. Make available financial resources, equipment and facilities to implement strategies developed under subparagraph b of this policy, subject to approval of the Chancellor or SBHE and, in concert with the experiment station director, extension service director and NDSU vice president for agriculture and president, maximize the use of existing financial resources, equipment and facilities to generate the greatest economic benefit from research efforts and to promote efficiency;
 - d. Annually evaluate the results of research activities and expenditures and report the findings to the legislative council and SBHE;
 - e. Advise NDSU officials regarding the recruitment and selection of the vice president for agriculture, experiment station director and extension service director; and
 - f. Advise the director of the extension service regarding the dissemination of research information and the best practices for management of the extension service.

3. The NDSU president and vice president for agriculture and the experiment station director shall serve as members of SBARE and shall assist SBARE in carrying out its duties and responsibilities. The NDSU president shall ensure that representatives of SBARE are involved in recruitment and selection of the vice president of agricultural affairs, the experiment station director and extension service director.
4. NDSU may, consistent with this policy and SBHE Policy 305.1, adopt additional policies necessary to implement N.D.C.C. ch. 4-05.1

References: N.D. Const. Art. VIII, § 6; N.D.C.C. ch. 4-05.1; SBHE Policy 305.1.

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Policy: 350.2 Workforce Training Boards

Effective: January 24, 2019

1. Institution workforce training units and workforce training boards shall be established pursuant to N.D.C.C. ch. 52-08. In accordance with chapter 52-08, local workforce training boards are subject to SBHE policy.
2. There are four workforce training service regions in the state: the northwest quadrant, consisting of state planning regions one and two; the northeast quadrant, consisting of state planning regions three and four; the southeast quadrant, consisting of state planning regions five and six; and the southwest quadrant, consisting of state planning regions seven and eight. WSC has primary responsibility for workforce training service in the northwest quadrant; LRSC has primary responsibility for the northeast quadrant; NDSCS has primary responsibility for the southeast quadrant; and BSC has primary responsibility for the southwest quadrant.
3. The presidents of BSC, LRSC, NDSCS and WSC shall establish a division or other unit within the college to serve the workforce needs of business and industry, to serve as a broker in arranging the delivery of training and to develop partnerships with business and industry and other training providers.
4. The presidents of BSC, LRSC, NDSCS and WSC shall each appoint a workforce training board consisting of representatives from businesses, labor and industries located within the institution's workforce training service region. Each board shall consist of not less than seven and not more than fifteen members. At least one member of each board must be a representative of an Indian-owned business, tribal government or tribal college within the region. Initial terms begin July 1, 1999 and shall be staggered so that approximately one-third of the terms end on June thirtieth in each of the next three years. Thereafter, members shall serve a regular term of three years.
5. The workforce training advisory boards shall:
 - a. Make recommendations concerning priorities of the workforce training units;
 - b. Assist in identifying skill shortages and workforce training needs in the region or state;
 - c. Provide input to the institution president and other institution officers in preparation of an annual business plan that meets the workforce training needs of the region and approve the business plan. The business plan shall include provisions for use of the training capacity of any tribal colleges located within the region;
 - d. Make recommendations for funding of the business plan to the SBHE;

- e. Provide connection between institutions and business, labor and industry associations and organizations;
- f. Assist with establishing strong and effective partnerships with other NDUS institutions, private and tribal colleges, businesses, labor organizations, local development organizations, state agencies, vocational centers and secondary schools to provide high quality and responsive service to employers and maximize the use of education and training resources of the NDUS and the state;
- g. Provide fund raising support to meet local workforce training funding needs;
- h. Assist the college technical education council with development of performance measurements for workforce training, which include requirements for being time sensitive and results oriented and determine how well the training needs of business and industry are being met;
- i. Serve as an advocate for workforce training; and
- j. Assist with preparation or review of annual workforce training reports.

Reference: N.D.C.C. ch. 52-08

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Policy: 350.3 School of Medicine and Health Sciences Advisory Board; Reports

Effective: May 16, 2012

1. The UND School of Medicine and Health Sciences (UND SOMHS) is under the administrative authority of the UND president. The UND SOMHS advisory council is established under N.D.C.C. § 15-52-03 and advisory council duties are enumerated in N.D.C.C. § 15-52-04.
2. UND and UND SOMHS officials shall collaborate with other agencies, associations and institutions represented on the advisory council and assist the council in studying and making recommendations regarding a UND SOMHS strategic plan and UND SOMHS programs and facilities.
3. As stated in N.D.C.C. § 15-52-04, a biennial report of the advisory council shall be submitted to UND and other entities represented on the advisory council and the legislative council.
4. At least annually, the UND SOMHS dean and advisory council chair shall report to the SBHE regarding the work of the advisory council and its studies and recommendations, UND SOMHS response to advisory council studies and recommendations, the UND SOMHS strategic plan and progress on strategic plan goals and objectives and related matters.
5. To have timely recommendations for biennial budget preparation, the UND president, in consultation with the advisory council and UND SOMHS dean, shall submit a biennial report and budget request for the UND SOMHS to the SBHE in each even-numbered year according to a timeline established by the Chancellor. The budget request should support the UND SOMHS strategic plan directions and address advisory council recommendations regarding programs and facilities.

Reference: N.D.C.C. ch. 15-52

**NORTH DAKOTA
STATE BOARD OF HIGHER EDUCATION
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Policy: 401.1 Academic Freedom

Effective: June 29, 2021

1. **SBHE Policy and Principles.** The State Board of Higher Education recognizes, as set forth in the 1940 Statement of Principles on Academic Freedom adopted by the American Association of University Professors with 1970 Interpretive Comments, the essential nature of academic freedom and responsibility to the institutions under its control, and reaffirms its commitment to ensuring that the institutions of the NDUS shall foster a free and open academic community for faculty members, students, and all other NDUS employees who engage in scholarly work.
2. **Academic Freedom.** Academic freedom is the freedom, without institutional, political, or other outside pressure or restraint, to explore any avenues of scholarship, research, and creative expression, and to speak or write on matters of public concern, as well as on matters related to professional duties and the functioning of the NDUS and the institution. Faculty are entitled the freedom in designing and teaching their assigned courses. Faculty members shall be free to involve interested students or other professionals in their scholarship or research and to pursue funding from internal or external sources to support it. Essential to this principle is the toleration of the conflict of ideas and the opportunity for the expression of diverse points of view. Faculty members and other NDUS employees who engage in scholarly work shall be subject to the full protections of speech and expression accorded to students under SBHE Policy 503.1 and 503.3.
3. **Academic Responsibility.** Academic responsibility implies the faithful performance of professional duties and obligations, the recognition of the demands of the scholarly enterprise, and the candor to make clear that when one is speaking on matters of public interest, one is not speaking for the NDUS or any of its institutions. In pursuing scholarly work, faculty and NDUS employees acknowledge the importance of intellectual integrity, accuracy in research and publication, and upholding the principles governing the free and open exchange of ideas, even where those ideas conflict.
4. **Classroom Speech and Expression.** Faculty at institutions under the control of the SBHE shall generally adhere to the 1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments adopted by the American Association of University Professors, which provides that “Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.” As a result, no faculty member may face adverse employment action for classroom speech unless the speech is not reasonably germane to the subject matter of the class as broadly construed and comprises a substantial portion of classroom instruction. As a general rule, faculty shall not face discipline or adverse employment action based on classroom speech unless such speech violates other institutional policies or procedures. Institutions may provide additional

protections for classroom speech and the speech of faculty in instruction-related activities, such as office hours, mentoring, advising, and other similar situations.

5. **Institutional Policies.** Each institution under the control of the SBHE, in consultation with the governing body of its faculty, shall implement a policy on Academic Freedom and Responsibility which effectuates the principles set forth in this policy, yet accounts for the individual needs of the institution.

References: SBHE Policies 503.1, 503.3

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Policy: 402 Delegation of Admission Authority

Effective: April 28, 2016

1. The SBHE delegates to institutions authority to adopt policies and procedures governing admission of students to the institutions and programs consistent with SBHE policy.
2. Admission decisions must be consistent with federal and state laws and SBHE policy regarding nondiscrimination.
3. Institutions may adopt policies and procedures restricting admission or readmission based on a determination that an institution is a threat to the safety or security of the campus community, other people or property. Institution policies or procedures shall include criteria for making such determinations and a process for appeal or reconsideration.
4. The Chancellor shall approve and all NDUS institutions shall use common undergraduate and graduate admissions application.

References: NDUS Procedures 402.0, 402.3

**NORTH DAKOTA
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Policy: 402.1 First-Year Applicants - Certificate, Diploma, and Associate Degree Programs
Effective: March 15, 2016

1. A first-year applicant who is a high school graduate or authorized equivalent may be admitted to certificate, diploma, and associate degree programs. Institutions may establish program admission requirements that are in addition to the general admission requirements.

For the evaluation of admission, a “first-year applicant” is one who has not attended a postsecondary institution after high school graduation, but may have enrolled in college or university coursework while in high school.

2. The student shall complete an application for admission and submit an application fee for each NDUS institution to which the student applies.
3. First-year applicants must include the following information with an application:
 - a. Official high school transcript as proof of high school graduation; and
 - b. ACT or SAT results or Aspire/Compass/Accuplacer scores for the purpose of placement as defined in the NDUS Procedure 402.1.2.
4. High school equivalency examinations authorized as high school equivalency in the state in which it is earned may be accepted in lieu of a high school diploma.

References: SBHE Policy 506.1; NDUS Procedure 506.

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Policy: 402.1.1 Standardized Test Scores

Effective: April 28, 2016

1. Every applicant for admission into a baccalaureate program of study shall submit official ACT or SAT scores. Applicants who do not have an ACT or SAT score report may be admitted provisionally, but cannot register for courses in a second term until they satisfy this requirement.
2. Applicants to undergraduate certificate, diploma and associate programs of study are strongly encouraged to take the ACT or SAT. However, institutions may admit applicants using other approved placement resources detailed in NDUS Procedure 402.1.2.
3. The following students are exempt from the requirement in SBHE Policy 402.1.1(1):
 - a. Students twenty-five years of age or older on the first day of class;
 - b. Students from countries other than the United States and Canada; and,
 - c. Students transferring twenty-four or more semester credits, excluding developmental coursework.

Reference: NDUS Procedure 402.1.2

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Policy: 402.1.2 Student Placement into College Courses

Effective: February 22, 2018

1. NDUS institutions use nationally recognized examinations referenced in NDUS Procedure 402.1.2 (4)-(8) for the purpose of admission and placement in college or university courses.
2. Students without qualifying assessment scores shall successfully complete a developmental course before enrolling in a degree credit bearing mathematics or English course or enroll in an institutionally-approved co-requisite course while taking a degree credit bearing mathematics and/or English course. Institutions may adopt policies requiring a higher qualifying placement score or additional placement criteria.

Reference: NDUS Procedure 402.1.2

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Policy: 402.2 First-Year Applicants - Baccalaureate Programs

Effective: October 29, 2020

1. Subject to this policy, a beginning first-year applicant who is a high school graduate may be admitted to baccalaureate programs. Institutions may establish program admission requirements that are in addition to the general admission requirements.

For the evaluation of admission, a “first-year applicant” is one who has not attended a postsecondary institution after high school graduation, but may have enrolled in college or university coursework while in high school.

2. The student shall complete an application for admission for each NDUS institution.
3. First-year applicants must include the following information with an application:
 - a. Official high school transcript as proof of high school graduation or High School Equivalency Certificate/General Education Diploma; and
 - b. ACT or SAT results or Aspire/Compass/Accuplacer scores for the purpose of placement as defined in the NDUS Procedure 402.1.2.
4. Admission to baccalaureate programs requires a minimum high school grade point average (GPA), composite ACT score or equivalent SAT score, and completion of the following high school core course requirements:

Institution	High School GPA	Composite ACT Score or equivalent	High School Core Course Requirements
Dickinson State University Mayville State University Valley City State University	2.00	18	13 Core Courses
Minot State University	2.75	21	13 Core Courses
North Dakota State University University of North Dakota	2.75	22	15 Core Courses

High school core course requirements include four units of English; three units of mathematics (Algebra I or above); three units of laboratory science, including at least one unit each in two or more of the following subject areas: biology, chemistry, physics, or physical science; and three units of social studies, excluding consumer education, cooperative marketing, orientation to social science, and marriage/family.

In addition to the requirements detailed above, applicants seeking admission to North Dakota State University and the University of North Dakota must complete additional units of coursework from the selected categories listed above or world language (including foreign languages, Native American Languages, or American Sign Language).

5. The following high school courses are also strongly recommended: A mathematics course in each year of high school including Algebra II (advanced algebra) and two units of a single classical or modern language, including American Sign Language and Native American Languages.
6. Applicants who do not meet the standards of the GPA or ACT may apply and may be reviewed on an individual basis by the respective institution.
7. Exceptions to this policy are referenced in SBHE Policy 402.1.1(3).
 - a. International students from countries other than U.S. and Canada shall be considered for admission if their high school preparation is judged to be equivalent to the SBHE Policy 402.2(3b).
 - b. Students 25 years of age or older on the first day of class are exempt from the requirements stated in Policy SBHE Policy 402.2(3b).
8. Baccalaureate institutions may establish additional criteria beyond the core curriculum stated in SBHE Policy 402.2(4) for the admission of students to the institution.

References: SBHE Policy 402.1.1; NDUS Procedure 402.1.2

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Policy: 402.3 Home Educated and Other Special Categories of Applicants

Effective: December 10, 2015

1. Institutions shall establish procedures governing admission of home educated students.
2. Home educated students shall comply with Policy SBHE 402.1.1, relating to required standardized tests, and SBHE Policy 402.2, relating to core curriculum requirements for admission to baccalaureate programs of study.
3. Institutions may establish procedures for the following special categories of applicants:
 - a. Early entry students to attend selected college and university classes while simultaneously attending high school;
 - b. Transient students who enroll at the institution and plan to transfer the credits earned to apply toward a degree at another institution;
 - c. Those who are enrolling in audit courses only;
 - d. Those who pursue a non-degree track of study;
 - e. Employees admitted under SBHE Policy 820;
 - f. Those whose application records are incomplete; and,
 - g. Collaboratively enrolled students at the provider institution.

References: SBHE Policies 402.1.1, 402.2, 820; NDUS Procedure 402.3

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Policy: 402.4 Admission Policies - Transfer Applicants

Effective: April 8, 2010

1. Institutions shall implement policies and procedures which facilitate student transfer.
2. Institutions may admit undergraduate applicants who have previously attended one or more postsecondary institutions following high school graduation. Such an applicant shall be known as a "transfer" applicant. Students progressing from a diploma, certificate, associate or less program to a four-year program at the same institution are treated as transfer applicants for admission purposes.
3. The Chancellor shall adopt procedures governing admission of undergraduate transfer applicants based on the following criteria:
 - a. A transfer applicant who has completed less than twenty-four semester or thirty-six quarter hours of transferable credit shall be considered as a beginning freshman applicant.
 - b. Transfer applicants who have completed twenty-four or more semester or thirty-six or more quarter hours of credit toward a degree program shall be admitted to the institution if:
 - i. They are in good standing, and not on dismissed or suspended status at their most recent institution attended;
 - ii. Present a cumulative grade point average of 2.0 on a 4.0 scale computed on all transferable work attempted at all colleges and universities previously attended; and
 - iii. Satisfy any additional criteria established at the institution for the selective admission of students to the institution or selected institution programs.

Transfer applicants who do not meet requirements i or ii above may be evaluated on an individual basis.

- c. Admission of undergraduate transfer applicants is based on transfer coursework which is comparable to that offered by the receiving institution. Other college-level courses completed may be used in evaluation for admission in accordance with each institution's policy.
- d. Transfer coursework, as defined in subparagraph c, shall be accepted in transfer if earned at colleges or universities that are regionally accredited.
- e. Comparable courses from institutions and organizations that are accredited by an association recognized by the council for higher education accreditation (CHEA) or

United States department of education shall be reviewed for transferability according to institution policies.

- f. In all cases, residency requirements and the precise amount of transfer credit which is applicable toward a degree is determined by the receiving institution.
- g. Each institution shall make available to transfer applicants a written description of its policies and procedures for transcript evaluation. The description shall identify an individual or department whom students may contact for transfer information or evaluation.
- h. The NDUS office shall publish a guide for intra-system transfer students and make it available through each institution.
- i. Institutions may award credit for education received from non-collegiate institutions on the basis of the guide to the evaluation of educational experiences in armed services, the national guide to educational credit for training programs, and such other published guidelines as appropriate.

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Policy: 402.5 Admission Policies - Former

Effective: February 22, 2002

1. Students who leave an institution in good standing (not on dismissed or suspended status) and have not attended any other institution are eligible for readmission to the same institution, providing space is available in the program to which they desire admission and the student satisfies any additional criteria established at the institution or selected institution programs.
2. Readmission of students who leave an institution in good standing (not on dismissed or suspended status) and have attended any other institution of higher learning between the time they left and the term they wish to be readmitted shall be based on the student's entire academic record, i.e., all residence work and transcripts from other institutions.

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Policy: 402.6 Admission Policies – Graduate and First-Professional Degree Programs

Effective: November 17, 2005

1. For admission to a graduate or first-professional degree program, admission criteria, procedures and decisions shall be determined by the faculties under the governance structure of the institution. Graduate and first-professional degree programs may require extensive application materials from each student seeking admission, including the completion of appropriate standardized tests.
2. Residence quotas may be established, for admission purposes, in each program at the institution's discretion; however, Minnesota residents must be admitted on the same basis as North Dakota residents or as otherwise permitted under the North Dakota-Minnesota reciprocity agreement, unless the program is exempt from that agreement.

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Policy: 402.7 Admission Policies -- Selected Undergraduate/Graduate Programs

Effective: February 22, 2002

1. The institutions may adopt policies and procedures to limit admission to selected undergraduate and graduate programs based on considerations in addition to high school records, test scores, residence academic records and transfer records. Examples of such considerations may include the following:
 - a. Facility or instructional equipment limitations;
 - b. Number of qualified faculty or support staff;
 - c. Available pool of qualified applicants; and
 - d. Financial resources.

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Policy: 402.8 Admission Policies - Non-resident students

Effective: January 31, 1991

1. Institutions may apply more stringent admission requirements to non-resident applicants, including standardized college entrance test score levels, high school rank, high school grade point average levels, or tests of general educational development.

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Policy: 402.9 Admission Policies - New International Students

Effective: June 27, 2019

1. The institutions are encouraged and authorized to admit applicants from foreign nations. The admission of international applicants is advantageous to the establishment of a well-rounded, cosmopolitan atmosphere on the campus that gives each student the opportunity to understand more fully the various world cultures with whom we come in contact.
2. For international students who have not previously attended one or more postsecondary institutions in the United States, the admission processes at each institution must consider English language ability, academic records, and financial resources.
3. All transcripts, including high school or postsecondary transcripts for institutions not located in the U.S., must be submitted for evaluation to the foreign credentials service of America (FCSA) or member organizations of the national association of credential evaluation services (NACES) or the association of international credit evaluators (AICE) if evaluation cannot be provided by admission staff trained for the country in question.
4. An applicant whose native language is not English shall demonstrate proficiency in the English language according to a process established by the institution and approved by the Chancellor.
5. Institutions should require actual documentation that funds exist at least for the student's first year of study and that, barring unforeseen circumstances, adequate funding will be available from the same or equally dependable sources for subsequent years.
6. It is a policy of the NDUS and NDUS institutions to comply with all federal immigration reporting requirements.
7. The use of agents paid on a commission or per student basis to recruit students is prohibited.
8. International students who have previously attended one or more postsecondary institutions are governed by SBHE Policy 402.4.

Reference: SBHE Policy 402.4

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Policy: 402.10 Admission Policies - Students Enrolling Under Reciprocal Agreements

Effective: February 22, 2002

1. Applicants for admission whose state of legal residence is a state with whom the SBHE has a reciprocal agreement shall be considered for admission pursuant to the provisions in the appropriate reciprocal agreement.

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Policy: 402.11 Tests of High School Equivalency

Effective: February 3, 2016

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1. A high school equivalency examination authorized as high school equivalency in the state in which it is earned may be accepted in lieu of a high school diploma.

Reference: NDUS Procedure 402.11

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Policy: 403.1.2 Institutional Instructional Program Evaluation

Effective: September 15, 2005

1. Existing undergraduate instructional programs shall be evaluated at least every seven years and graduate programs shall be evaluated at least every ten years by each institution. New programs shall be evaluated within one year after the first class graduates. The purposes of instructional program evaluation shall include assessments of the current level of program quality, means to improve program quality, relationship of the program to the mission of the institution, and program productivity. The Chancellor shall adopt procedures governing program evaluation, which must include:
 - a. A comprehensive self-study by the program faculty, a discussion of the evaluation results with the relevant dean or vice-president, a written statement of the evaluation's findings, and a written action plan describing follow-up activities. Each succeeding evaluation of a given program shall address the extent to which the program has successfully dealt with the concerns of the preceding evaluation;
 - b. Diverse assessment activities, such as:
 - i. A site visit and review by a qualified consultant from another institution;
 - ii. A review by one or more faculty members from another program within the institution;
 - iii. An assessment of student learning, which may include pre- and post-tests, performance on professional or graduate record examinations, or other appropriate methods)
 - iv. A survey of program alumni to determine their current positions and opinions of the program;
 - v. A survey of current students to determine whether the program is meeting their needs; and
 - vi. Review and advice from the program advisory council or other representatives of the employers of program graduates.
2. Within one year following the graduation of the first class in a new academic program, the institution shall conduct an evaluation in accordance with items SBHE Policy 403.1.2(1)(a) and (1)(b). Not later than six months after the first evaluation of a new academic program is complete, the institution shall submit to the Chancellor a summary of the findings and the follow-up plans.
3. For continuing programs, each institution shall provide a report to the Chancellor by January of each year on instructional program evaluations conducted in the previous academic year. The report shall include a list of all instructional programs evaluated and a summary

statement describing institutional decisions and actions taken in response to the evaluations.

4. Notwithstanding the above requirements, a new or existing certificate program within a major degree program, or a certificate program developed from a group of courses within a specific major, shall be evaluated when the major degree program is evaluated; an independent certificate program, or a certificate program offered separate from a specific major shall be evaluated as a separate program according to the requirements set forth above.

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Policy: 403.2 Course Inventories and Titles

Effective: February 22, 2002

Each institution shall modify its course offerings as necessary to provide up-to-date, high-quality courses and programs for its students. This process is expected to involve both the deletion and addition of courses, resulting in a master course catalog which accurately reflects current course offering.

Reference: NDUS Procedure 403.0.2

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Policy: 403.6 Course Challenges and Prior Learning Credit

Effective: February 22, 2002

1. Institutions may allow students to earn course credits without enrolling in the course offering by evaluating their competency with locally developed tests or other proficiency assessments. This allowance does not apply to courses for which nationally standardized examinations exist and are accepted by system-wide agreements or courses covered by articulation agreements with secondary schools.
2. Campuses shall follow the current higher learning commission guidelines in awarding prior learning credit.

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Policy: 403.8 Major and Minor Equivalency

Effective: November 20, 2003

1. To assist in implementation of the No Child Left Behind Act of 2001, institutions with teacher education programs are authorized to approve highly qualified teacher status earned under major or minor equivalency programs. This authority expires December 31, 2006.
2. The major and minor equivalency programs are restricted to currently licensed teachers seeking to teach in North Dakota.
3. The Chancellor shall adopt procedures implementing this policy.

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Policy: 403.9 Developmental Courses

Effective: May 9, 2013

Developmental courses are basic academic skills courses designed to prepare students to complete regular academic degree-credit courses. All NDUS courses numbered less than 100 are developmental courses. Developmental courses may count toward a student's full-time course load. This policy is effective fall 2014.

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Policy: 404.1 Distance Education Program Approval

Effective: February 26, 2019

1. A distance learning credit activity is an academic program or institutional-approved credit course that uses one or more technologies to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between the students and the instructor synchronously or asynchronously. Distance education delivery modes includes the following (parentheses indicate coding of these courses in the NDUS student information system):
 - a. Online synchronous (IA)
 - b. Online asynchronous (IS)
 - c. Interactive Video (V2)
 - d. Independent Study (CR)

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Policy: 405.1 Student Teaching Field Experience

Effective: June 20, 2002

Institutions providing teacher education shall implement procedures permitting student teaching experiences in both public and parochial schools. The Chancellor shall adopt procedures establishing guidelines consistent with the United States Constitution governing placement in parochial schools.

References: U.S. Const.; NDUS Procedure 405.1

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Policy: 406.1 Academic Calendars

Effective: May 30, 2019

1. Except for the School of Medicine and Law, University system institutions shall operate under a common academic year calendar approved by the Chancellor. The Chancellor shall approve academic year calendars at least two years in advance and may approve a perpetual calendar.
2. Academic year calendars must include at least 160 class days, including test days, but excluding class holidays and days reserved for orientation, registration and commencement. Institutions may designate one class day before finals each semester as a reading/review day.
3. Academic year calendars are subject to the following additional guidelines:
 - a. Class holidays are:
 - i. Labor Day;
 - ii. Veterans Day;
 - iii. Thanksgiving Day, along with the Wednesday before and the Friday following Thanksgiving Day;
 - iv. Martin Luther King Jr. Birthday;
 - v. President's Day; and
 - vi. The Friday before and Monday following Easter Sunday;
 - b. Fall semester ends before Christmas;
 - c. There is at least a two week break, including Christmas and New Year's Day, between Fall and Spring semesters;
 - d. There is a one week Spring semester break beginning the Monday following 40 class days;
 - e. Finals week begins on a Monday unless a campus identifies the penultimate Friday of the semester as a reading/review day, in which case final exams may begin on the Saturday following the Friday reading/review day;
 - f. Campuses may identify programs that shall continue to hold class meetings during finals week; and
 - g. For a standard 16 week semester, the last day to add or drop a course without a record is the 10th calendar day in the fall term and the 11th calendar day in the spring term. For course drops or institutional withdrawals after the 10th calendar day in the fall term or 11th calendar day in the spring term but not later than the last business day of the 12th week of class, a "W" shall be recorded. Add, drop and withdrawal dates for summer

terms or other sessions not 16 weeks in length shall be proportionate to the standard 16-week term. Registration day is the first day of a standard 16-week academic term. Grades reported at the end of the term shall include those of students who fail to drop the course or withdraw from the institution according to the dates listed above. Requests for reconsideration or appeals and exceptions to these requirements, based on hardship or other good cause, shall be addressed following established institutional procedures.

4. Campuses may adjust course meeting schedules when the holiday schedule differentially affects courses that meet once a week.

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Policy: 406.2 Class Starting Times

Effective: January 19, 2012

To maximize opportunities for institutions to share courses over the interactive video network and other technologies, classes shall start on the hour whenever practical.

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Policy: 407 Reverse Transfer

Effective: June 29, 2021

The goal of the North Dakota Reverse Transfer initiative is to assist students who have transferred from a North Dakota public or tribal community college who are currently enrolled at a NDUS university by offering an additional opportunity to complete an associate degree or similar credential. This initiative applies to former students from North Dakota public or tribal colleges who completed at least 24 credits while at the college but transferred prior to completing an associate degree. The NDUS will work with the colleges and universities to develop a seamless process for qualified students to apply for and be granted this valuable, cost-effective credential.

1. Students who have transferred to a North Dakota University System university from a North Dakota college or North Dakota tribal college will be eligible to complete an associate degree or similar credential through the reverse transfer of completed coursework.
2. Eligible students will have completed at least 24 semester hours at the NDUS college or ND tribal college without completing an associate degree prior to transfer to an NDUS university.

Reference: NDUS Procedure: 407.0

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Policy: 409 Degrees Offered

Effective: January 24, 2019

1. SBHE shall approve institution degrees and programs.
2. An institution may only request a new degree if the following conditions are met:
 - a. There is a documented student and employer demand;
 - b. Existing programs or degrees at other institutions are not meeting the demand and other institutions authorized to offer the degree are not positioned to meet the demand;
 - c. The proposed degree includes collaboration with other institutions, if feasible; and
 - d. The institution seeking the new degree is best positioned to offer a degree program to meet the demand, either collaboratively or separately.
3. The SBHE authorizes each institution with teacher education programs to award major equivalencies in areas where they have SBHE approved majors and minor equivalencies in areas where they have SBHE approved minors, pursuant to SBHE Policy 403.8.
4. A subplan is a group of courses within an approved academic program which is identified in an institutional catalog. Subplans are either transcriptable or non-transcriptable. Transcriptable subplans include all options, specializations, emphases and concentrations. A minimum of twelve undergraduate credit hours or nine graduate credit hours is required for each transcriptable subplan. Completion of transcriptable subplan requirements may be indicated on a student transcript at the discretion of the institution. Non-transcriptable subplans include all other groups of courses used for student tracking and advisement purposes such as tracks and foci. Notations regarding non-transcriptable subplans never appear on a student transcript. SBHE approval is not required for a subplan.
5. The SBHE authorizes each institution to award certificates of completion.
6. Institutions are authorized to transcript, list and award certificates of completion consistent with their SBHE approved missions without specific SBHE approval for each certificate.
7. SBHE approval is required for all new program certificate (not certificates of completion), diploma programs, and degree programs as they are to appear on student records and catalog announcements. The Chancellor shall adopt procedures governing requests for approval and shall maintain a list of all SBHE-approved certificates and degrees for each institution.
8. Institutions should use higher learning commission guidelines to define terminal degrees.

Bismarck State College

Certificate, diploma, and associate-level programs and the Bachelor of Applied Science.

Dakota College at Bottineau

Certificate, diploma, and associate-level programs.

Dickinson State University

Certificate, diploma, limited associate, baccalaureate and specifically approved masters-level programs.

Lake Region State College

Certificate, diploma, and associate-level programs.

Mayville State University

Certificate, diploma, limited associate, baccalaureate and specifically approved masters-level programs.

Minot State University

Certificate, diploma, specifically approved associate, baccalaureate, masters-level programs, and the Education Specialist degree.

North Dakota State College of Science

Certificate, diploma, and associate-level programs.

North Dakota State University

Certificate, baccalaureate, masters, and doctoral-level programs.

University of North Dakota

Certificate, baccalaureate, masters, and doctoral-level programs.

Valley City State University

Certificate, diploma, specifically approved associate, baccalaureate and limited masters-level programs.

Williston State College

Certificate, diploma, and associate-level programs.

References: SBHE Policies 403.7, 403.8; NDUS Procedure 409

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Policy: 410.0 Responsible Conduct of Research

Effective: June 27, 2017

1. Responsible conduct of research (RCR) is defined as the practice of scientific investigation with integrity. Research is to be conducted in a manner that accurately reflects the research record and avoids research misconduct such as fabrication of data, falsification of data and plagiarism.
2. This policy is intended to set forth expectations for implementing appropriate training and oversight in compliance with federal RCR requirements.
3. Institutions receiving any external funding or support for research shall adopt a policy that requires RCR training for all undergraduate students, graduate students, and postdoctoral researchers participating in sponsored research activities.
4. “Support” includes nonmonetary provision or access to equipment, supplies or lab space by paid or unpaid research participants.

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Policy: 411 Admission
Effective: August 1, 2023

1. DEFINITIONS

- a. **First-year Applicant.** A high school graduate or authorized equivalent who has not attended a postsecondary institution after high school graduation. High school students who completed or are enrolled in college coursework or have earned a degree while in high school are considered first-year applicants.
- b. **Transfer Applicant.** A student who has previously attended one or more postsecondary institution following high school graduation.
- c. **International Applicant.** A student who is not a United States citizen and
 - i. Will be present in the United States on a temporary non-immigrant basis, or
 - ii. Will study online from outside the United States.
- d. **Former Applicant.** A former enrolled student who leaves an institution and returns to the same institution.
- e. **Graduate and Professional Degree Applicants.** A student who has earned a bachelor's degree and is pursuing additional education in a specific program.
- f. **Non-Degree Applicant.** A student whose goal is to take a limited number of course for the purposes of personal or professional enrichment and who have no intent of accumulating credits toward a certificate or degree.
- g. **Official Secondary Education Transcript.** An official high school transcript must meet any of the following criteria:
 - i. Arrive in a sealed envelope by the issuing high school.
 - ii. Arrive as a secure electronic transcript.
- h. **Official Postsecondary Transcript.** An official transcript must meet any of the following criteria:
 - i. Arrive in a sealed envelope by the issuing institution.
 - ii. Arrive via an inter-campus exchange for only NDUS institutions.
 - iii. Arrive via a secure electronic transcript exchange.
 - iv. A copy attested by the issuing institution shown as an attestation stamp.
 - v. Arrives as a photocopy attached to a credential evaluation performed by an active member of National Association of Credential Evaluation Services (NACES) or Association of International Credential Evaluators (AICE).

2. ADMISSION CRITERIA

- a. NDUS institutions shall review and update the NDUS common undergraduate and graduate admission application annually. The Chancellor may enact procedures to carry out this requirement.
- b. NDUS institutions shall establish and publish policies and/or procedures for admissions for first year, former, graduate, and professional degree, international, non-degree, and transfer applicants in compliance with the requirements of this policy. The Chancellor may enact procedures to carry out this requirement.
- c. NDUS institutions may adopt policies and/or procedures restricting admission or readmission based on a determination that an institution is a threat to the safety and security of the institution community, other people, or property. Policies and/or procedures shall include criteria for making such determination and a process for appeal or reconsideration.
- d. NDUS institutions shall be consistent with federal and state laws and SBHE Policies regarding nondiscrimination.
- e. NDUS institutions shall provide a checklist to applicants to ensure all appropriate documents are received for admission purposes.
- f. NDUS intuitions shall establish and publish policies and/or procedures for military applicants.
- g. NDUS institutions may require additional admission requirements.
- h. NDUS institutions may establish policies and/or procedures to limit admission to selected undergraduate and graduate programs. (e.g. facility or instruction equipment limitations, number of qualified faculty or support staff, available pool of qualified applicants, financial reasons, etc.)
- i. NDUS institutions may apply more stringent admission requirements to non-resident applicants.
- j. Applicants for admission who state of legal residence is a state with whom the SBHE has a reciprocal agreement shall be considered for admission pursuant to the provisions in the appropriate reciprocal agreement.
- k. NDUS institutions shall use nationally recognized examinations for the purpose of admission and placement in institutions courses. The Chancellor may enact procedures to carry out this requirement.
- l. Resident quotas may be established, for admission purposes, in each program at the institution's discretion.

- i. Minnesota residents must be admitted on the same basis as North Dakota residents or as otherwise permitted under the North Dakota-Minnesota reciprocity agreement, unless the program is exempt from that agreement.
- m. NDUS and NDUS institutions shall comply with all international federal immigration reporting requirements.
- n. The use of agents paid on a commission or per student basis to recruit students is prohibited.
- o. NDUS institutions shall establish and publish policies and/or procedures for dismissal/suspended students.

References: NDUS Procedures 402.1.2, 411.1, 411.2, 411.3, 411.4, 411.5, 411.6, 411.7, 412.1, 412.2

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Policy: 412 Transfer of Credits

Effective: August 1, 2023

1. NDUS institutions shall establish and publish policies and/or procedures for transfer of credit in compliance with the requirements of this policy.
2. NDUS institutions shall identify a contact(s) for the transfer of credit-related information.
3. NDUS institutions must transcribe all completed undergraduate transfer coursework for an undergraduate program into the student information system that applies to any program of study at their institution. The Chancellor may enact procedures to carry out this requirement.
 - a. Institution policies and/or procedures shall determine the number of elective credits to be transcribed.
 - b. A transcribed course will not be removed upon program change.
4. NDUS institutions shall accept college/university level courses recognized by the United States Department of Education from regionally accredited organizations or nationally recognized agencies.
 - a. NDUS institutions may, at their discretion, accept college/university level courses from institutions that have a “hold” status for their accreditation.
5. NDUS institutions may award credit for education received from non-collegiate institutions based on guidelines outlined in the institution’s policies and/or procedures.
6. A course must meet a minimum comparability standard of 70 percent of content to be transcribed unless a higher standard required for program specific accreditation or discipline content.
 - a. Course comparability shall be determined by assessing learning outcomes and content as established by the course outline, syllabus, and/or course description.
7. NDUS institutions shall ensure the number of credits transferred must be the same as the number of credits earned at the sending institution for that course, and consider any conversion of quarter, semester, or trimester credit.
8. NDUS institutions shall recognize common general education programs and courses. The Chancellor may enact procedures to carry out this requirement.

9. Articulation agreements between the NDUS and other institutions may enable the transfer of general education and other credits among institutions. The Chancellor may enact procedures to carry out this requirement.
10. Students must meet institutional residency requirements as established by the receiving institution with the understanding that students may need to take additional credits to meet the residency requirement.
11. Students who have completed an Associate in Arts and/or Associate in Science degree shall be granted credit for having met all lower-division general education requirements. Students may be required to complete other courses, which may fall under a general education category, only if the courses are required as part of the student's program and were not completed prior to transfer or are part of the receiving institutions upper-division general education requirements.
12. NDUS institutions shall establish and publish policies and/or procedures for students to appeal course and credit transfer decisions.
 - a. The appeal process shall allow students the opportunity to question transfer decisions concerning their academic record and shall allow for an impartial review by qualified faculty and/or staff.
 - b. The institutions shall provide the student a written response containing the rationale for the final decision and reference applicable SBHE Policies or NDUS Procedures.
 - c. Institutions may not discriminate against, sanction, or retaliate in any way against a student because the student chose to file an appeal.
13. Students not satisfied with the institutions transfer appeal decision may submit a transfer appeal to the North Dakota University System Office. The Chancellor may enact procedures to carry out this requirement.

References: NDUS Procedures 412.1, 412.2, 460, 461, 462, 464, 465

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Policy: 420 Accreditation

Effective: February 22, 2002

1. All institutions must maintain accreditation by the higher learning commission.
2. Institutions may apply, with the concurrence of the Chancellor, for accreditation of professional programs by agencies recognized by the United States secretary of education.
3. A copy of the final accreditation report or accreditation status letter received by the institution shall be sent to the Chancellor.

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Policy: 421 Academic Program Requests

Effective: August 1, 2021

1. DEFINITIONS

- a. **Academic Program Exploration Notice.** Allows an institution to announce their intent to offer an Academic Program not currently offered at their institution.
- b. **New Academic Program Request.** Allows an institution to request a new Academic Program to identify the curricular content and an academic award significantly different from other academic programs at an institution.
- c. **Course Prefix Request.** Allows an institution to request the creation of a new course prefix and title or to permit an institution to be add to an existing course prefix used at another institution. The course prefix is assigned to a subject code that identifies the discipline, field or program offering the course.
- d. **Academic Program Title Change.** Allows an institution to change their program title to accurately reflect the curriculum.
- e. **Academic Program CIP Code Change.** Allows an institution to update the current six-digit code that identifies instructional program specialties within the institution.
- f. **Degree Type Change.** Allows an institution to add additional degree types to an existing program that is offered.
- g. **Delivery Method Change Notice.** Allows an institution to update existing delivery methods of a program.
- h. **Academic Program Inactivation.** Allows an institution to inactivate programs that are temporarily removed from the institutional offerings for a period not to exceed three years.
- i. **Academic Program Reactivation.** Allows an institution to reactivate a program placed on inactive status. To reactivate a terminated program, regardless or reactivating part of or the entire former program, (curriculum) the request must be submitted as a New Program Request.
- j. **Academic Program Termination.** Allows an institution to terminate an academic program which permanently ends the academic program to new enrollment.
- k. **Department/School/College Name Change.** Allows an institution to update a department/school/college name.
- l. **Program/Plan Modification Request.** Allows a lesser credential (i.e. minor or certificate) to be created where a previously approved program/plan degree exists or for an update an existing program/plan codes in a situation not defined by the other request options.

2. PROGRAM REQUEST DETAILS

- a. Each institution shall establish procedures for program requests at their respective institution.
- b. Institutions are required to follow NDUS procedures in the preparation and submission of academic program requests.
- c. The Chancellor shall adopt procedures implementing this policy with respect to the following:
 - i. Academic Program Exploration notices
 - ii. Course Prefix requests
 - iii. Academic Program/CIP Code requests
 - iv. Delivery Method Change notices
 - v. Academic Program Inactivation/Reactivation requests
 - vi. Department/School/College Name Change requests
 - vii. Program/Plan Modification Change requests
- d. New Academic Program Request
 - i. SBHE shall approve the establishment of all new instructional programs granting academic credit leading to a degree or credential. The SBHE Academic and Student Affairs Committee (ASAC) shall have authority to approve all new academic program requests on behalf of the SBHE.
 - ii. The Chancellor shall adopt procedures to make a recommendation on New Academic Program requests.
 - iii. Institutions shall adhere to SBHE Policy 420 Accreditation.
 - iv. Approval of a New Academic Program requests does not itself require allocation of funds.
 - v. Institutions may appeal the ASAC final decision to the SBHE for further review.
- e. Degree Type Change
 - i. SBHE shall approve the establishment of all new instructional programs granting academic credit leading to a degree or credential. ASAC shall have authority to approve all new academic program requests on behalf of the SBHE.
 - ii. The Chancellor shall adopt procedures to make a recommendation on new Degree Type Change requests and academic program terminations.
 - iii. Institutions may appeal the ASAC's final decision to the SBHE for further review.

References: SBHE Policy 420; NDUS Procedure 421

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Policy: 430.1 Honorary Degrees

Effective: February 22, 2002

1. An honorary doctoral, masters, specialist, baccalaureate, or associate degree may be awarded by an institution when the institution has been granted authority to award the respective degrees.
2. In the name of the NDUS, the SBHE may award honorary degrees based on a recommendation from the Chancellor, or the president of one of the institutions, with the Chancellor's concurrence.
3. An institution may not award an honorary degree until it has been approved by the SBHE upon nomination by the Chancellor or the president of an institution and recommendation by the Chancellor.
4. To avoid any embarrassment, no suggestion shall be made to any individual to be so honored until the SBHE has acted.
5. An honorary degree may not be awarded to an employee of the SBHE except after that individual's retirement or termination has been acted upon by the SBHE.
6. Recognized earned doctoral degrees shall not be awarded as honorary degrees. In general, the recognized honorary degrees of Doctor of Laws (LL.D), Doctor of Letters (Litt.D), Doctor of Science (Sc.D) and Doctor of Humane Letters (L.H.D.) should be used, although appropriately titled degrees could be used to recognize achievement in specific professions. Recognized master, specialist, baccalaureate and associate degrees may be awarded as honorary degrees when the word "honorary" is clearly indicated in the degree title.
7. Institutions authorized to award honorary degrees shall develop written procedures for selecting appropriate candidates. Those procedures shall include the following criteria, which also apply to nominations by the Chancellor:
 - a. The candidate should have had an association with North Dakota. This association may be by virtue of birth, of residence, of education, of service to the state, the SBHE, or one of the institutions governed by the SBHE.
 - b. The candidate must have achieved a level of distinction which would merit comparable recognition in the profession or area of excellence.
 - c. The renown of the candidate should reflect favorably on the SBHE, the institutions it governs, and North Dakota.

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Policy: 430.2 Emeritus Status

Effective: February 26, 2019

1. The SBHE may confer emeritus status upon retirement or after retirement to a Chancellor or president, based upon significant contributions or length of service to North Dakota, the NDUS, or the institution.
2. Institutions may confer emeritus status upon retirement or after retirement to faculty or senior administrators or professionals, excluding emeritus status for presidents, pursuant to institution policies and procedures. Criteria for emeritus status may include length of service to the institutions, significant contributions to the institution and North Dakota, or particularly distinguished service to an academic discipline.
3. Institutions, including the System Office and Core Technology Services, may confer emeritus staff status pursuant to institution policies and procedures. Criteria for emeritus staff status may include length of service to the institution, significant contributions to the institution and North Dakota, or particularly distinguished service to the institution and the academic community.
4. Emeritus status shall not include salary or other compensation or other rights, except privileges specified in institution policies or procedures.

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Policy: 430.3 Posthumous Degrees

Effective: September 26, 2012

1. Institutions may adopt policies and procedures to award a posthumous degree. Institution requirements must include the following:
 - a. A student must have been in good academic standing with the institution at the time of death;
 - b. The student must have satisfied the institution's requirements for earned credits in residence; and
 - c. The student must have substantially completed the degree requirements.

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Policy: 440 Enrollment Reporting

Effective: September 30, 2021

NDUS degree credit enrollment reporting is intended to be consistent with United States department of education integrated postsecondary education data system (IPEDS) definitions for measures of instructional activity on an annual basis. The measures are adjusted for a semester basis for term reporting.

1. Fall and spring enrollment reports.

- a. Each institution shall report fall and spring semester enrollments for degree seeking students based on the number of students enrolled on the twentieth scheduled class day of the fall and spring semesters.
- b. Institutions shall cancel registration of student who do not meet the definition of enrolled prior to enrollment reporting.

2. Annual enrollment reports.

- a. Each institution shall, for each reporting period, report to the NDUS office numbers of all students by category as defined by this policy. The NDUS office shall prepare and submit to the SBHE an annual system report, including unduplicated degree seeking student, non-degree seeking student, and non-credit student enrollment for each institution and the aggregated NDUS at the end of each academic year.
- b. Annual reports shall include categories for all degree seeking students, non-degree seeking students, and non-credit students and include total head count. Reports shall include non-duplicated totals at the institution and system level.
 - i. Reports for degree seeking students also shall include full-time, part-time, and full-time equivalency (FTE) numbers; numbers of new freshmen; and transfer students.
 - ii. All degree seeking students and non-degree seeking student enrollments shall be reported based on information in the administrative information system. Reports shall include course delivery mode.
 - iii. Annual enrollment reports shall include all enrollments for which the student did not get a one hundred percent tuition refund.
 - iv. Non-credit students shall be reported based on the numbers of students

participating in all non-credit education and training activities.

3. Definitions.

- a. “Degree seeking students” means students enrolled in courses for credit who are seeking a degree, certificate, or other formal award. This includes students who received any type of federal financial aid; received any state or locally based financial aid with an eligibility requirement that a student be enrolled in a degree, certificate, or transfer-seeking program; or obtained a student visa to study at a U.S. postsecondary institution. A student enrolled in a degree program who is currently taking only credit based remedial courses is degree seeking. High school students also enrolled in postsecondary courses for credit are not considered degree seeking.
- b. “Enrolled” means that a student has registered and:
 - i. Paid tuition and fees; or
 - ii. Made a payment of at least one hundred dollars on or before the institution’s payment due date; or
 - iii. Has a payment plan in place with the institution; or
 - iv. Has a different payment date or has been granted an extension as provided by SBHE Policy 830.1; or
 - v. The institution has other documentation that the student has registered and is in attendance, including documented class attendance or student access or use of a learning management system or other online services on or after the first scheduled class day of the semester.
- c. “Non-degree seeking students” means students enrolled in courses for credit who is not recognized by the institution as seeking a degree or formal award.
- d. “Non-credit students” means students enrolled in all institutional activities, including continuing education unit (CEU) activities, which do not result in award of college credit immediately upon completion of the activity.
- e. “Annual report year” means a complete summer term and succeeding fall and spring semesters.
- f. “New” or “first-time freshmen”, means students entering any institution for the first time at the undergraduate level, including students enrolled in the fall term who earned college credits in the prior summer term or entered with advanced standing before graduation from high school.
- g. “Transfer students” means students who have earned college credit at another postsecondary institution at the same level (e.g., undergraduate, graduate) following high school graduation.

- h. “Full-time undergraduate students” means undergraduate students who are enrolled in twelve or more credit hours during fall or spring semester.
- i. “Full-time graduate students” means graduate students enrolled in nine or more credit hours during fall or spring semester. For institutional academic administration purposes, other assignments may be taken into consideration when considering the full-time status of a graduate student.
- j. “Full-time professional students” means medicine, law and pharmacy students enrolled in nine or more credit hours during the fall or spring semester.
- k. “Part-time students” means all students enrolled in courses for credit but less than full-time.
- l. “Total head count” means all students enrolled in courses for degree credit. Auditing students are not included in total head counts.
- m. “Full time equivalency” or “FTE on a semester basis” means undergraduate total credit hours divided by fifteen; graduate total credit hours divided by twelve. Full-time equivalency on an annual basis means undergraduate total credit hours divided by thirty; graduate total credit hours divided by twenty-four. Every professional student is counted as one FTE _student.
- n. When reporting summer enrollment as an individual term, full time undergraduate is defined as students enrolled in 12 or more credits; full time graduate is defined as students enrolled in 9 or more credits. Full time summer FTE is calculated using the undergraduate total credit hours divided by 12; graduate total credit hours divided by 9. When calculating FTE on an annual basis, refer to item “m” above.

Reference: SBHE Policy 803.1

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Policy: 441 Degree Credit, Non-Degree Credit and Non-Credit Instructional Activity

Effective: November 17, 2011

1. The Chancellor shall define requirements for degree credit, non-degree credit, and non-credit activities and subcategories. The definition for each category shall describe how the activity must be recorded and transcribed, and whether the activity is included in headcount on a semester or annual basis or both. Each subcategory must specify whether the activity is included in FTE enrollment calculations in a semester or annual report.
2. Definitions of applicable terms shall be consistent with a NDUS data warehouse data element dictionary.

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Policy: 450 Institutional Reports, Catalogs, Bulletins

Effective: February 22, 2002

Institutions shall publish electronic or hard copies of catalogs and bulletins for the purpose of furnishing prospective students and other interested persons with information about the institutions. Announcements contained in such printed or electronic material are subject to change without notice, and may not be regarded as binding obligations on the institutions or the state of North Dakota.

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Policy: 460 Transfer and Test Credit Agreements

Effective: August 1, 2021

1. DEFINITIONS

- a. General Education Requirement Transfer Agreement (GERTA) is an outline of the institution's general education requirement and an approved set of general education coursework that are transferable between NDUS institutions and participating tribal and private institutions.
- b. Alternative General Education Program (AGEP) is an outline of the institution's general education learning outcomes and an approved set of general education coursework that is transferable between NDUS institutions and participating tribal and private institutions.
- c. Common Course Numbering (CCN) is a uniform numbering convention used by NDUS institutions and participating tribal and private institutions to oversee, coordinate, and facilitate curricular offerings across the institutions.
- d. Credit-by-Exam (CBE) is program allows students to earn college credit for what they already know or learn by participating in a CBE program. Passing college-level, subject matter exams through a credit-by-exam program offers students the opportunity to earn college credit. Examples of CBE providers include, but are not limited to CLEP, DSST, IB, and AP.
- e. Agreements is a variety of articulation agreements, memorandum of understanding/agreements (MOU/A) and secondary-postsecondary articulation agreements. These types of agreements will guide students to institutions through the document that openly states how to transfer in the most efficient manner. A MOU is intended to explore opportunities to collaborate in areas that would be mutually beneficial to each institution. A MOA is a strategic advantage to an institution for specific activities of importance.
- f. Military General Education Requirement Transfer Agreement (GERTA) is an educational agreement that allows military courses to transfer to institutions in alignment with GERTA.

2. TRANSFER AND TEST CREDIT AGREEMENT DETAILS

- a. Common general education requirement applies to all Associate of Arts, Associate of Science and bachelor's degrees, except the Bachelor of Applied Science degree at NDUS institutions.

- b. NDUS institutions shall recognize common general education programs and courses that are outlined within in GERTA, AGEP, and Military GERTA procedures.
- c. NDUS institutions shall use the CCN matrix as deemed transferrable courses among institutions as outlined within procedure.
- d. NDUS institutions shall use the Credit-by-Exam chart to determine minimum credit granting score, the number of semester credits to be awarded and the course(s) or type of course(s) to be awarded as outlined within procedure.
- e. Articulation agreements between the NDUS and other institutions may enable the transfer of general education and other credits among institutions as outlined within procedure.

References: NDUS Procedures 460, 461, 462, 463, 464, and 465

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Policy: 469 College Credit in High School

Effective: August 1, 2021

1. Dual enrolled students (dual enrollment) are students who enroll in college courses offered by an institution of higher education while enrolled in high school or seeking a recognized equivalent. Student performance is recorded on a college transcript and postsecondary credit is awarded for a passing grade in the course.
2. Institutions shall cooperate with secondary schools to offer secondary students the option of enrolling in postsecondary courses.. Institutions may permit eligible students in grades ten, eleven and twelve, who have permission from their school district superintendents or designee, to enroll in postsecondary courses.

Reference: Procedure 469

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Policy: 503.1 Student Free Speech and Expression

Effective: December 9, 2021

1. Definitions for Terms Used in this Section

- a. **Constitutional time, place, and manner restrictions** – Restrictions on free speech which are content-neutral, narrowly tailored to serve a significant interest, and leave open alternative methods of communicating the message in question.
- b. **Faculty** – An individual, regardless of whether the individual is compensated by an institution, and regardless of political affiliation, who is tasked with providing scholarship, academic research, or teaching, including tenured and nontenured professors, adjunct professors, visiting professors, lecturers, graduate student instructors, and those in comparable positions. “Faculty” does not mean an individual whose primary responsibilities are administrative or managerial, unless the individual also teaches at least one credit-hour.
- c. **Free speech or Free Expression** – The rights to speech, expression, and assembly protected by the First Amendment to the United States Constitution or Article I, Section 4 of the Constitution of North Dakota. Such rights include, but are not limited to, all forms of peaceful assembly, protests, demonstrations, rallies, vigils, marches, public speaking, distribution of printed materials, the display of signs or banners, or the circulation of petitions. For the purposes of this policy, “free speech” or “free expression” is not intended to include commercial speech.
 - i. **Commercial Speech** – The promotion, sale, or distribution of a product or service. For the purposes of this section, commercial speech does not include the incidental promotion, sale, or distribution of a product as part of the exercise of non-commercial speech.
- d. **Materially and Substantially Disruptive Conduct** – Conduct by an individual or group which constitutes knowing or intentional affirmative steps to limit the free speech of an individual or a group, prevents the communication of a message, or disrupts a lawful meeting, gathering, or procession through violent or obstructive behavior. Protected conduct does not constitute a material and substantial disruption.
- e. **Protected Conduct** – Free Speech or Free Expression protected by the First Amendment to the United States Constitution or Article I, Section 4 of the Constitution of North Dakota, subject to reasonable time, place, and manner restrictions, permitting requirements under institutional policies or procedures, and the reasonable safety and security needs of the institution.

- f. **Student** – an individual enrolled in one or more courses at an institution. For the purposes of this Policy, a student who is acting in a paid role, such as a graduate student instructor or teaching assistant, is not a student for the purpose of this policy while they are engaged in that paid work.
- g. **Student-on-Student Harassment** – An institution may only discipline students for student-on-student harassment which meets one or more of the following criteria:
 - i. (1) Unwelcome verbal, written, or physical conduct directed to another student or a specified group of students; (2) that is lewd, obscene, defamatory, unlawful, has the purpose of causing distress, or is based on the student's (or students') actual or perceived personal characteristics; and either (3a) objectively and subjectively creates a hostile or disruptive environment or substantially interferes with the student's educational work; or (3b) the conduct is so severe or pervasive and objectively offensive that it is reasonably likely, based on specific and documented facts, to create a substantial disruption to the educational environment or to effectively deny a student equal access to educational opportunities or benefits provided by the institution; or
 - ii. Conduct which violates North Dakota criminal laws prohibiting harassment, stalking, menacing, criminal coercion, or similar behavior.
- h. **Student-on-Student Discriminatory Harassment** – Speech or expression that is unwelcome, targets the victim on a basis protected under federal, state, or local law, and is so severe, pervasive, and objectively offensive that a student effectively is denied equal access to educational opportunities or benefits provided by the institution.
- i. **Student Organization** – An officially recognized organization, or an organization seeking recognition by an institution, comprised of students, whether or not that organization seeks or receives institutional funds.

2. **SBHE Policy on Student Free Speech and Expression**

- a. The SBHE recognizes that students have a fundamental right to free speech and expression under the First Amendment to the United States Constitution and Article I, Section 4 of the North Dakota Constitution, and as a result the SBHE and institutions under its control shall ensure that students have the freedom to speak, write, listen, challenge, learn, and discuss any issue, subject to reasonable and constitutionally-recognized limitations.
- b. Institutions under the control of the SBHE shall not engage in viewpoint- or content-based discrimination or suppression of speech and shall to the greatest extent possible permit and facilitate the open discussion and debate of ideas and issues, regardless of the content of those issues.

- c. Institutions under the control of the SBHE shall not discipline or impose sanctions on any student for harassing conduct or expression unless the speech meets the definition of either “student-on-student discriminatory harassment” or “student-on-student harassment.” Institutions may not utilize the disciplinary process to sanction or discipline student speech that constitutes protected conduct except as provided in those definitions.
 - i. Notwithstanding, institutions may respond to student-on-student speech or expression which does not meet these definitions by taking constructive, non-punitive actions to promote a welcoming, inclusive environment.
- d. As a general rule, institutions under the control of the SBHE shall not use the concepts of civility or mutual respect as a basis to suppress or limit the discussion of ideas, regardless of content, except as reasonably necessary in the educational setting.
- e. Institutions under the control of the SBHE generally shall not seek to shield individuals from the free speech or expression of others.
- f. Institutions under the control of the SBHE shall control the availability of campus spaces for free speech and expressive activity as follows:
 - i. Institutions shall maintain the generally accessible, open, outdoor areas of its campus as traditional public fora for free speech by students, faculty, student organizations, and members of the public, subject to reasonable and constitutional time, place, and manner restrictions. Institutions may require students, faculty, student organizations, and members of the public to obtain a permit to reserve the exclusive use of an outdoor space constituting a traditional public forum. Such permits may not be issued or denied based on the content of the message or viewpoint the permit requestor seeks to convey.
 - ii. Institutions may only designate as restricted or designated forums: (1) those areas inside buildings which have not otherwise been treated as traditional public fora; (2) areas in residential areas of campus during evening and overnight hours; (3) areas immediately surrounding academic buildings during times when classes are held in that building; (4) areas which must be restricted due to reasonable safety and security concerns; (5) areas which must be restricted to enable the flow of pedestrian or vehicle traffic; and (6) areas surrounding building entrances and exits to provide for safe and convenient ingress and egress from those buildings. Institutions may only designate an area of campus as a restricted or designated forum on the grounds of an educational, safety or security, or health-related reason (e.g. ensuring a quiet residential environment for students in residence halls).

Institutions may grant permits to students, faculty, student organizations, or others to exercise free speech or expression in such restricted or designated fora based on content-neutral criteria.

- iii. Institutions may close to free speech or expressive activity those areas which are not designed for the exercise of free speech or expression or which have traditionally not been open to the exercise of free speech or expressive activity.
- g. Institutions may not deny student organizations funding from the student activity fee based on the viewpoints of the student organization; however, institutions may create content-neutral criteria which permit the distribution of limited funds to student organizations. Student activity fee funding may not be reduced based on outside funding received by a student organization.
- h. Institutions may not treat a student organization differently (i.e. more favorably or more negatively) than other student organizations with respect to the provision of any right, benefit, or privilege based on a requirement in the organization's constitution or bylaws that leaders or voting members of the organization shall (1) adhere to the organization's viewpoints or sincerely held beliefs; or (2) be committed to furthering the organization's viewpoint or mission.
- i. Students, faculty, and student organizations shall be permitted to invite guest speakers or groups to campus regardless of the anticipated content or viewpoint of the speaker or group's speech or expression. Institutions may not prohibit any invited speaker or group from speaking on campus, and may not retract (or pressure or require students, faculty, or a student organization to retract) an invitation to speak based on the anticipated content or viewpoint of the speech or expression.
- j. Institutions may not impose fees on students, faculty, or student organizations, including with respect to invited guest speakers or groups, for the use of campus facilities based on the anticipated content or viewpoint of speech, expression, or the anticipated reaction thereto, but institutions are not required to subsidize the free speech and expression of students, faculty, or student organizations or their guests. As a result, institutions may, in their discretion, impose facility use fees based on venue, anticipated attendance, and other non-content-based factors. Such fees may not exceed the actual costs incurred by the institution, and the institution must refund any overpayment. Institutions shall set forth empirical and objective criteria for calculating such fees, and such criteria shall be made publicly available. Institutions may not consider the potential reaction to speech, including but not limited to potential protest activity, when calculating facility use fees.
- k. Institutions may make their facilities available to guest speakers or groups invited by students, faculty, or student organizations, and may subject such guest speakers or groups to the same terms and conditions governing use of the facilities for other

outside groups. If institutions choose to make facilities available to guest speakers or groups invited by students, faculty, or student groups, those facilities must be made equally available to all such speakers or groups.

- l. Institutions may prohibit materially and substantially disruptive conduct.
- m. Institutions may impose measures regarding student free speech and expression which comport with the First Amendment of the United States Constitution and Article I, Section 4 of the Constitution of North Dakota, including, but not limited to:
 - i. Constitutional time, place, and manner restrictions on the use of traditional public fora;
 - ii. Reasonable and viewpoint-neutral restrictions on the use of restricted or designated fora;
 - iii. Prioritizing the use of institution resources and property for students, faculty, and student organizations over individuals and groups not affiliated with the institution;
 - iv. Prohibiting or limiting speech, expression, or assemblies not protected by the First Amendment to the United States Constitution and Article I, Section 4 of the Constitution of North Dakota, such as defamatory speech, true threats, and other recognized exceptions; and
 - v. Content-based restrictions reasonably related to a legitimate educational or pedagogical purpose, such as rules for behavior in the classroom.
3. **Institutional Policies on Student Free Speech and Expression**
 - a. Institutions shall adopt policies and procedures which shall be no more restrictive of student free expression than this SBHE Policy on Student Free Speech and Expression.
4. **Institutional Policies on the Distribution of Publications, Hanging of Banners or Posters, and Chalking.**
 - a. Institutions shall adopt policies or procedures governing the distribution of information through publications, banners and posters, or chalking. Such policies or procedures must allow students, faculty, or other individuals and groups to access meaningful opportunities to distribute information, while ensuring safety and access to facilities, maintaining clear directional signage, minimizing disruption to the educational mission of the institution, and limiting litter and clutter on institution properties and campuses. The opportunity to distribute information through publications, banners or posters, or chalking may not be limited based on the content of the information to be distributed, but the institution may impose reasonable time, place, and manner restrictions on such distribution,

provided that such restrictions ensure the existence of meaningful alternative means of distribution.

5. **Title IX Proceedings Exempt** – Proceedings and reports governed by Title IX are governed by SBHE Policy 520 and institution policies adopted pursuant to that policy.
6. **Reports of Violations of this Policy** – Individuals who believe this policy (or an institutional policy covering the same or similar subject matter) has been violated may report any violation through an existing reporting process at an institution. Alternatively, individuals may report violations to the NDUS Office’s Director of Student Affairs (the “Director”). In the event that a report is made to the Director, he or she shall determine the appropriate institution official to address the report in consultation with the Vice Chancellor of Academic and Student Affairs. Pursuant to SBHE Policy 308.2, no NDUS employee, officer or member of the SBHE shall retaliate against an individual for making a report under this paragraph.
7. **Institutional Reporting** – Institutions shall annually, or at the request of the Vice Chancellor of Academic and Student Affairs, report the total number of reports made under this policy (or an institutional policy covering the same or similar subject matter), the time to resolve such reports, and the number and type of corrective actions taken to the Vice Chancellor of Academic and Student Affairs.
8. **Institution Policy Approval** – All institution policies, procedures, or processes adopted or amended pursuant to this policy, must be submitted to and approved by the Vice Chancellor of Academic and Student Affairs prior to going into effect.

References: N.D. Const. Art. I, § 4, SBHE Policies 308.2, 520

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Policy: 503.2 – Student Data Privacy and Security Bill of Rights

Effective: May 29, 2020

The SBHE, the NDUS, and NDUS institutions are committed to responsibly collecting, storing, and using the Personally Identifiable Information (PII) of students, while protecting student PII from unauthorized access or disclosure. This Policy reflects the reality that students are the owners of their PII and should control access to and distribution of their PII to the greatest extent possible, but many NDUS programs and technologies require student PII to function for the students' benefit. This Policy outlines student rights related to the privacy and security of their educational and personal data.

1. Students have the right to know what types of PII are collected by the NDUS, including its institutions, along with general information regarding how such information is stored and used. The NDUS and NDUS institutions shall, to the greatest extent possible in light of existing systems and processes, make information available concerning what types of student PII is provided to NDUS's vendors and contractors, and may provide more detailed information when a requested by an individual student, if available.
2. The NDUS and NDUS institutions shall adhere to the requirements of the Federal Education Rights and Privacy Act (FERPA). As part of this compliance, NDUS and its institutions designate certain PII as "directory information," as set forth in NDUS Procedure 1912.2. This directory information constitutes a public record under N.D.C.C. § 44-04-17.1, *et seq.* Students may, at any time, request that their directory information not be disclosed (and thereby not be treated as a public record), but understand that such requests may limit the ability of institutions to provide services to students in certain circumstances.
3. Pursuant to FERPA and this Policy, students shall have the right to inspect and review the contents of their educational record maintained at any applicable NDUS institution by filing a written request to the institution in question. The NDUS institution may place limitations on the means of access to the educational record to ensure the security of such educational record.
4. Pursuant to FERPA and this Policy, students shall have the right to challenge the accuracy and completeness of the student educational record information collected and maintained by filing a written request through the process established by the NDUS institution in question.
5. Neither NDUS nor any NDUS institution shall sell, release, or otherwise disclose non-directory information student PII for commercial or advertisement purposes.
6. The NDUS and NDUS institutions shall responsibly engage with third-party providers of educational services and vendors to ensure that student PII disclosed to those providers and

vendors is protected as per industry standards and best practices as part of any contracts executed with such providers and vendors, and shall as a business practice ensure that only the PII required for the product in question is disclosed. At all times the NDUS and NDUS institutions should weigh the value of a product to the NDUS or institution against the risks of disclosure to protect the best interests of students.

7. Students shall not be required to disclose their PII to a third-party service provider as a course requirement unless the terms and conditions of that disclosure have been reviewed and approved (or negotiated) by NDUS Core Technology Services or an institution's administration, in consultation with NDUS or institution legal counsel. If a faculty member seeks to use a software product that does not meet the terms of this section, such as a free smartphone application, in a course, an alternative must be provided which does not require students to disclose their data, at the student's request, at no additional cost to the student. Students shall be protected from punitive educational consequences for their refusal to disclose PII in compliance with this section. This section does not apply to open educational resources, online course materials, or other substantive educational materials (e.g. online supplements to textbooks, Lexis-Nexis, etc.) or to services which require disclosure of only name and state-provided email address.
8. While the NDUS and NDUS institutions may utilize student educational data for research purposes, to inform assessment, accreditation, and accountability, or to shape policies at the institution or program levels, students shall not experience punitive educational consequences as a result of findings from such assessment or educational research. Nothing in this Policy shall prohibit the NDUS or any NDUS institution from offering students, generally or individually, additional services or resources based on such assessment or research.
9. When student data is included in published or publicly-presented reports, NDUS and NDUS institutions shall use appropriate safeguards to prevent the identification of students through the use of PII, including adhering to research best practices with respect to deidentifying data, minimum cell sizes, and other prudent steps as recommended by applicable Institutional Review Boards, and the NDUS Institutional Research office.
10. The NDUS and NDUS Institutions are committed to implementing data security safeguards meeting or exceeding industry standards and best practices under state and federal laws to protect student PII. General information on the types of safeguards employed shall be made available to students on written request.
11. Students shall have the right to file complaints about violations of this Policy or other possible breaches of student data, and to have those claims addressed in a fair, reasonable, and appropriate manner. The Chancellor shall establish a process to address complaints directed to the NDUS or NDUS Core Technology Services. Student complaints regarding NDUS institutions should be directed to the institutional grievance process.

References: 20 U.S.C. 1232g; 34 C.F.R. Part 99; N.D.C.C. § 44-04-18.1 *et seq.* NDUS Procedure 1912.2.

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Policy: 503.3 Student Political Rights

Effective: June 29, 2021

1. **Policy.** The State Board of Higher Education recognizes, affirms, and supports the rights of students to exercise their First Amendment political rights, including, but not limited to participating in political activities, advocacy, and expression or civic engagement without interference by the SBHE, NDUS, or NDUS institutions. This policy is not intended to limit such rights in any way, and is instead meant to protect the exercise of such rights. As a result, nothing in this policy should be read to limit the First Amendment free expression, assembly, association, or other political rights of NDUS students while outside the classroom, and this Policy shall be read narrowly to avoid infringing on those rights.
2. **Protection from Retaliation or Discrimination.** No student of an NDUS institution may face discipline or retaliation of any kind related to participation in any activities which comply with the terms of this policy. The SBHE and NDUS strictly prohibit any NDUS employee from coercing, based on educational or other consequences, any student to engage in any kind of politically-oriented activity, including the making of monetary contributions.
3. **Student Employees.** If a student is acting as a paid employee of an institution, their on-duty actions are subject to the provisions of SBHE Policy 308.3. This paragraph does not apply to students designated as employees solely due to their service in student government or other elected or nominated leadership roles within an institution, the NDUS, or the SBHE.
4. **Student Organizations.** Student organizations shall be free to engage in civic engagement and political activities and advocacy without interference or restraint by the SBHE, NDUS, or any NDUS Institution, subject to the requirements and limitations of this policy.
 - a. Student organizations shall be permitted to use any funding or resources provided by the institution or student government to provide educational or service-based events or experiences for members of the organization or campus community, such as (but not limited to) inviting speakers to campus, hosting debates or forums, or attending local, state, or national conferences or conventions, even if such events or experiences may be interpreted as “political” or “partisan” by an outside observer. Student organizations may not be denied funding, or have their funding limited, based on the organization’s political viewpoints, membership, or based on a requirement in the organization’s constitution or bylaws that leaders or voting members of the organization shall (1) adhere to the organization’s viewpoints or sincerely held beliefs; or (2) be committed to furthering the organization’s viewpoints or mission.
 - b. Notwithstanding, student organizations may not use funding or resources provided by the institution or student government for electioneering, as that term is defined in this

Policy.

- c. Student organizations may use NDUS or institution phone, email, social media, and similar systems to advertise meetings, educational opportunities, and events, except that such systems may not be used for electioneering, as defined in this Policy. A student organization that sends a communication using a NDUS- or institution-owned phone, email, social media account, or similar system must include a disclaimer in substantially the following form in any such communication: “This communication is sent [by/on behalf of] [insert name of group]. The content of this communication is the responsibility of [insert name of group], and does not represent the views or policy of [name of institution], the North Dakota University System, or any other entity.”
 - d. If a student organization publishes any posting, communication, or advertisement on an institution- or NDUS-administered website (i.e. a website with a “.edu” extension) which the institution, in its sole discretion, determines creates the impression that the institution has endorsed a particular candidate, or particular side or viewpoint of a public referendum or public debate, the institution may require, as a condition of hosting the site, that a disclaimer be included stating that the opinions expressed are those of the author or sponsoring student organization, and do not represent the views of the institution, NDUS, or any other entity.
5. **Electioneering.** North Dakota state law, N.D.C.C. § 16.1-10-02, strictly prohibits the use of state property, including funds provided by the SBHE, NDUS, an institution, or a student government, for electioneering.
- a. For the purposes of this policy, “electioneering” means:
 - i. Any activity undertaken in support of or in opposition to a statewide initiated or referred measure, a constitutional amendment or measure, a political subdivision ballot measure, or the election or nomination of a candidate to public office, which activity includes the use of the phrases “vote for,” “oppose,” or any similar support or opposition language; and
 - ii. In the period thirty days before a primary election and/or sixty days before a special or general election, any activity in which a candidate’s name, office, district, or any term meaning the same as “incumbent” or “challenger” is used in support of or in opposition to the election or nomination of a candidate to public office.
 - iii. Electioneering does not include:
 - 1. Activities undertaken in the performance of the duties of a public office, including elected student office, or a position taken in any bona fide news story, commentary, or editorial, including in any student-led or student-run publication;

2. Presenting factual information regarding a ballot question solely for the purpose of educating voters, provided that the information does not advocate for or against or otherwise reflect a position on the adoption or rejection of the ballot question; or
 3. The incidental use of the terms “vote for,” “oppose,” “incumbent,” “challenger” or other terms ordinarily constituting electioneering if such use occurs during a debate, forum, speaker, or other event sponsored by a student organization or outside group, if such event did not have electioneering as its primary intended purpose.
- b. For the purposes of this policy, “state property” means State-owned motor vehicles, telephones, technology, funds of money, and buildings. The use of SBHE, NDUS, or Institution-owned buildings by any candidate, political party, committee, or organization for electioneering activities is permitted, provided that such use complies with the provisions of SBHE Policy 308.3 or other state law.

References: U.S. Const., Amend. 1; N.D.C.C. 16.1-10-02; SBHE Policy 308.3.

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Policy: 504 Resident Tuition Law and Guidelines

Effective: March 30, 2001

1. N.D.C.C. § 15-10-19.1 governs determination of residency for tuition purposes.
2. The Chancellor may adopt procedures implementing N.D.C.C. § 15-10-19.1.

Reference: N.D.C.C. § 15-10-19.1

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Policy: 505 International Student Health Insurance

Effective: October 29, 2020

1. All international students enrolled at any NDUS institution shall carry the group health and accident insurance plan approved by the Chancellor beginning on or before the date they commence studies and lasting until termination or completion of their studies.
 - a. “International students” for the purposes of this policy means students having non-immigrant status for the primary purpose of studying in the United States, including any students holding a student category J, F, or M visa who are enrolled at an NDUS institution.
 - b. For students in J-1 or J-2 status, the approved plan must also meet the minimum requirements for health insurance plans established by the United States department of state for exchange visitors and the student’s institution.
 - c. The NDUS contracts with a third-party student health insurance provider. Terms, conditions, and refunds are within the purview of the insurance provider.
2. Waivers are only granted in exceptional circumstances. Further, waivers are granted by each institution and are subject to the criteria for comparable coverage outlined by procedure.
3. In addition, the Chancellor may by procedure exempt students who are citizens of countries with a mandatory national health plan (or are otherwise eligible for coverage by such a mandatory national health plan), if:
 - a. The mandatory national health insurance plan covers all students who are citizens of that country (or who are otherwise eligible for coverage);
 - b. The mandatory national health plan covers students studying in the United States; and
 - c. The coverage provided by the mandatory national health insurance plan is comparable to the plan required by this policy and immigration visa standards.

Reference: NDUS Procedure 505

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Policy: 506.1 Immunization

Effective: November 16, 2016

1. Any student enrolled at any NDUS institution shall provide documentation of immunity against measles, mumps and rubella (MMR). The Chancellor shall adopt procedures implementing this policy.
2. Effective fall 2017, newly admitted students ages twenty-one and younger shall provide documentation of immunity against meningococcal disease. The Chancellor shall adopt procedures implementing these requirements.
3. Each institution will establish procedures for exemption, which may include students enrolled only in distance learning courses, courses taught off campus, continuing education or noncredit courses, and students in attendance at camps, workshops or programs and classes delivered under contract to a third party. NDUS benefited employees are exempt from the policy and procedures; however, each institution will implement procedures for staff and faculty enrolled in classes. Institutions may grant additional exemptions upon application to and approval by the authorized institution official under established institution procedures, when:
 - a. Immunization is contraindicated by a medical condition that is certified by a licensed provider;
 - b. The student's beliefs preclude participation in an immunization program; or
 - c. Instances when the student has had one MMR immunization and agrees to have a second one no less than twenty-eight days later.
4. Each institution shall establish procedures for tuberculosis (TB) screening of international students. Testing is required of new students from all countries except those classified by United States health officials as low risk for tuberculosis.

Reference: NDUS Procedure 506.1

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Policy: 507 Student Publications

Effective: August 1, 2015

1. Each institution shall adopt a policy governing publication and management of student publications and other student media published, broadcast or operated at or in the name of the institution, or funded, in whole or in part, by student fees or other institutional funds, distributed or generally made available to members of the student body, and prepared under direction of the institution's student media advisor.
2. Institution policy shall include guidelines applicable to student publications and other student media. The guidelines shall:
 - a. Foster and preserve the conditions necessary for a free student press;
 - b. Protect the rights of student journalists;
 - c. Require compliance with all applicable laws, regulations and policies, including those prohibiting discrimination in hiring or employment;
 - d. To the extent permitted by law, prohibit publication or dissemination of libelous or obscene materials or materials meant to incite imminent lawless action or the substantial disruption of the operations of the institution;
 - e. To the extent permitted by law, restrict advertising that is false, misleading or that promotes illegal activities; and
 - f. Require appropriate disclaimers stating that the institution is not responsible for the content of student publications or broadcasts.
3. Institution officials or employees and student government officers, except those acting as members of the student publications board or committee consistent with applicable laws, regulations or policies, may not attempt to censure or exercise control, directly or indirectly, over the content of student publications and other student media.

Reference: N.D.C.C. ch. 15-10

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Policy: 508 Student Grant, Scholarship, Loan Repayment and Exchange Programs

Effective: June 29, 2021

1. The Chancellor shall adopt and implement procedures to administer all student grant, scholarship, loan repayment and exchange programs within statutory limits. Programs include:
 - a. ND Career and Technical Education Scholarship, ND Academic Scholarship, and the ND Scholarship
 - b. Professional Student Exchange Program
 - c. Scholars Program
 - d. Skilled Workforce Scholarship Program
 - e. Skilled Workforce Student Loan Repayment Program
 - f. Student Financial Assistance Program
 - g. Tribally Controlled Community College Assistance Grant
 - h. Dual-Credit Tuition Scholarship Program

References: N.D.C.C. §§ 15-10, 15-10-28, 15-10-28.2, 15-10-38.1, 15-10-38.2, 15-10.1, 15-10-43, 15-10-43.2, 15.1-21-02.4, 15.1-21-02.5, 15.1-21-02.6, 15.1-21-02.8, 15-62.4, 15-62.5, 15-70; NDUS Procedures 508.1, 508.2, 508.3, 508.4, 508.5, 508.6, 508.7.

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Policy: 510 Rights of Students Called to Active Military Service

Effective: November 21, 2002

1. A student not on active military service at the beginning of an academic term who is called or ordered to active military service for fourteen consecutive days or longer during the term shall have the right, at the student's option:
 - a. To withdraw from any or all classes in which the student is enrolled, even if after the established deadline for withdrawal, and be entitled, subject to applicable laws or regulations governing federal or state financial aid programs and allocation or refund as required under those programs, to a full refund of tuition and mandatory fees. The student shall not receive credit or a grade for classes from which the student withdraws. A student in good standing at the time of exercising this right shall have the right to be readmitted and reenroll, without penalty or redetermination of admission eligibility, within one year following release from active military service;
 - b. To request an incomplete under the institution's incomplete policy; or
 - c. Except for science labs, internships and other classes for which attendance or in-person participation is an essential part continue and complete the course for full credit if, in the opinion of the faculty member teaching the class, the student has completed sufficient work and has demonstrated sufficient progress toward meeting course requirements to justify the award of credit and grade. Upon a student's request and at the discretion of the faculty member, this option may be made available for a science lab or internship.
2. A student called or ordered to active military service during a term shall have the right to a refund of fees other than mandatory fees for that term as follows:
 - a. A refund on a *pro rata* basis for a housing contract and a traditional term board contract, and a full refund of any unused balance for a "declining balance" board contract, or a board contract by which a student purchased a specified number or dollar value of meals;
 - b. A refund on a *pro rata* basis of parking fees and other optional fees; and
 - c. No refund is due for course challenge or similar fees for classes for which the student is awarded full credit;
 - d. No refund is due for flight training or similar fees for specialized training.

3. The Chancellor may adopt procedures implementing this policy.

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Policy: 511 Student Criminal History Background Checks

Effective: October 24, 2019

1. NDUS undergraduate admission applications may require disclosure of criminal history information. Institutions that offer graduate or professional programs may require disclosure of criminal history information on graduate and professional program applications. The Chancellor shall adopt a procedure implementing this requirement and defining the information required on undergraduate applications.
2. The Chancellor shall adopt an implementing procedure and designate the programs for which nationwide criminal history background checks are authorized under N.D.C.C. § 12-60-24. The procedure may include uniform requirements or guidelines that apply to all institutions or designated programs at all institutions.
3. Each institution shall adopt policies or procedures implementing this policy, including requirements or guidelines governing criminal history background checks on students and use of criminal history information in admissions decisions.

Reference: N.D.C.C. § 12-60-24

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Policy: 512 Student Drivers and Use of State Vehicles by Student Groups

Effective: April 8, 2010

1. N.D.C.C. § 39-01-03 prohibits private use of state vehicles. State vehicles may be used by employees or others acting on behalf of the state, including student employees and students who are acting on behalf of the state as a volunteer or in an unpaid status in performing duties assigned by competent authority. As a general rule, all passengers in the vehicle must also be acting on behalf of the state. Liability coverage for accidents involving state vehicles is provided by N.D.C.C. ch. 32-12.2. Chapter 32-12.2 provides coverage for state employees and persons acting on behalf of the state, with or without compensation, who are using a vehicle for state business and who are operating that vehicle within the scope of their employment.
2. To the extent permitted by state law, student drivers, acting as employees of an institution or otherwise acting on behalf of the institution, may be allowed to operate state vehicles for approved purposes. Each institution shall adopt a policy and procedures governing operation of state vehicles by students. Institution policy shall include guidelines governing operation of state vehicles by students and procedures to document a student driver is performing duties assigned by competent authority. Institution guidelines and procedures shall require:
 - a. Proof of a valid and current driver's license for the student driver, issued by a state of the United States; a state of Mexico; or a province of Canada. If the student driver has a license issued by a foreign country other than Mexico or Canada, the proposed driver shall provide a valid and current driver's license from that individual's country of residency and a valid and current international driver's permit. The student driver must be at least eighteen years of age.
 - b. Requests for students to operate state vehicles for an event or activity affiliated with a course or program to be submitted on an approved form to the designated office or officer at the institution by the instructor or staff member responsible for the course, program, event or activity. If the event or activity is not affiliated with a course or program, such as membership in or appointment to student government, the North Dakota student association (NDSA), or NDUS councils and committees, then the student shall submit a request on an approved form to the designated office or officer at the institution.
 - c. All requests for student operation of state vehicles must comply with provisions of the North Dakota state fleet services policy manual, issued by the North Dakota department of transportation.
 - d. The request to permit a student to operate a state vehicle must show that

the student driver is providing a service to the institution by operating a vehicle.

3. N.D.C.C. ch. 32-12.2 does not provide vehicle liability coverage for students enrolled in instructional programs that involve the education or training of students in the operations of equipment or vehicles. Institutions that offer instruction in programs requiring operation of state vehicles by students must purchase vehicle liability coverage for this purpose. Institutions shall establish guidelines for eligibility of a student to operate state vehicles in connection with that student's training in a specified course or program of instruction.
4. Use of state vehicles by or on behalf of student associations, clubs, groups or organizations (student groups) may be allowed for approved purposes. Institution policies and procedures governing operation of state vehicles shall include guidelines governing operation of state vehicles by or on behalf of student groups. The guidelines shall require:
 - a. Identification of the proposed driver or drivers, and proof of a valid and current driver's license for each proposed driver of a vehicle, issued by a state of the United States; a state of Mexico; or a province of Canada. If the proposed driver has a license issued by a foreign country other than Mexico or Canada, the proposed driver shall provide a valid and current driver's license from that individual's country of residency and a valid and current international driver's permit. Each driver must be properly licensed and have the required training to operate the class of vehicle proposed to be used by the student group. For example, a class C license is necessary to operate vans which can carry fifteen or more passengers. A driver must be at least eighteen years of age.
 - b. Requests for use of state vehicles by or on behalf of a student group for an event or activity affiliated with a course or program to be submitted on an approved form to the designated office or officer at the institution by the instructor or staff member responsible for the course or program.
 - c. Requests by or on behalf of a student group to use a state vehicle must show that the student group is acting on behalf of the institution by its members' attendance at or participation in a proposed event or activity. Use of state vehicles by members of student groups for private or personal purposes is prohibited.

References: N.D.C.C. ch. 32-12.2; N.D.C.C. § 39-01-03

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Policy: 514 Due Process Requirements for Student Conduct That May Result in Suspension or Expulsion

Effective: July 23, 2020

1. This policy applies to student conduct proceedings, not involving academic misconduct, which could result in the suspension or expulsion of a student or the suspension or removal of institutional recognition for a student organization. Each institution's conduct procedures must include the minimum requirements set forth in this policy. Student grievance proceedings based on allegations of Title IX violations are governed by Policy 520.
2. For purposes of this section:
 - a. "Advisor" means either an attorney or non-attorney advocate who advises a student or student organization during the conduct proceedings.
 - b. "Appeals authority" means the individual or individuals appointed by an institution to consider appeals.
 - c. "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.
 - d. "Hearing officer" means the neutral individual designated by an institution to conduct the disciplinary proceedings, whether alone or as a member of a panel.
3. During student conduct proceedings, a student or student organization has the right to be represented, at the student or student organization's expense, by an advisor of its choice.
4. The hearing officer shall provide written notice to any student or student organization involved in a disciplinary process regarding an alleged violation of institution policies. The notice must:
 - a. Identify the specific allegation against the student or student organization;
 - b. Be provided to the parties at least three business days before any hearing or deadline for a response from the student; and
 - c. Include information about the right to an advisor at any proceeding.

The notice requirement is waived if the recipient consents to a shorter notice period or for the initiation of interim measures or emergency actions.

5. A student or student organization accused of violating institution policies shall be entitled to a hearing.
 - a. The student or student organization shall be provided opportunity to present information responsive to the alleged violations.
 - b. The student or student organization and its advisor may fully participate during the hearing.
 - c. The hearing officer shall include relevant information and exclude information that is neither relevant nor probative.
 - d. The hearing officer shall render a decision within the period designated by the institution.
 - e. The hearing officer shall promptly notify the parties of the hearing outcome and applicable sanction in writing.
6. The student or student organization shall be afforded an opportunity to appeal the hearing outcome to an appeals authority designated by the institution.
 - a. The appeal must be received within the period designated by the institution. Notwithstanding any previous appeals, institutions shall provide a method of reviewing a decision for at least one year following the original decision based on a demonstrated change in circumstances relevant to the conduct proceedings.
 - b. The student or student organization's right to be represented by an advisor also applies to the appeal.
 - c. The appellant shall clearly state the reasons for the appeal and shall provide any relevant information to support the appeal. The issues that may be raised on appeal include new information, contradictory information, and information indicating that the student or student organization was not afforded due process.
 - d. The appeal authority must be an institutional administrator or body that did not make the initial decision.
 - e. The appeal authority may consider other information directly related to the appeal.
 - f. The appeal authority shall rule on the appeal within the period designated by the institution.
 - g. The appeal authority may grant the appeal, deny the appeal, order a new hearing, or reduce or modify the suspension or expulsion.

7. If the appeal results in the reversal of the initial decision or a lessening of the suspension, the institution may reimburse the student for any tuition and fees paid to the institution for the period of suspension or expulsion that had not been previously refunded.
8. This policy does not preclude the initiation of interim measures and emergency actions by an institution in response to a reasonable belief that there exists a substantial risk of imminent harm to the campus community.
9. Institutions may develop procedural elements beyond the minimum requirements set forth in this policy.

**NORTH DAKOTA
STATE BOARD OF HIGHER EDUCATION
Policy Manual**

Policy: 515 North Dakota Student Association

Effective: April 29, 2021

1. The SBHE recognizes and appreciates the importance of student representation in the affairs of the NDUS to its principles of shared governance. The North Dakota Student Association (the “NDSA”) is a recognized, independent body within the NDUS and under the auspices of the SBHE. The NDSA shall be responsible for representing the interests of the students of the NDUS and to engaging in appropriate advocacy to advance the concerns and needs of all students across the NDUS.
2. The NDSA shall be entitled to receive and utilize the NDSA Fee, as set forth in SBHE Policy 803.5(c), which is established to support the NDSA and its activities. The NDSA may take advantage of NDUS and North Dakota shared services. Provided that the NDSA spends the NDSA Fee in ways which are permissible under North Dakota law and the NDSA Constitution and Bylaws, the SBHE will not interfere with NDSA finances.
3. The NDSA’s political actions and political speech shall be protected against intervention from the SBHE pursuant to SBHE Policy 503.3.
4. The NDSA, while nominally established under the auspices of the SBHE, shall be functionally independent. Generally, neither the SBHE, the NDUS, nor any institution shall intervene in the internal functions and decision-making of the NDSA, including, but not limited to:
 - a. The NDSA’s adoption or maintenance of an internally-governing Constitution or Bylaws;
 - b. The NDSA’s determination as to its membership limits, the apportionment of membership, or the methods by which NDSA members are selected;
 - c. The NDSA’s election, selection, or retention of officers;
 - d. The NDSA’s decisions as to policy priorities or positions on issues related to the students of the NDUS, including but not limited to the content, decisions, bills or resolutions that the NDSA General Assembly supports;
 - e. The NDSA’s decision to take a position, testify, or lobby related to legislation before the North Dakota Legislative Assembly or other legislative body; and
 - f. The NDSA’s selection of candidates for the Student Member of the SBHE.

Nothing in this Policy should be read as prohibiting the SBHE from taking such steps as are required to ensure compliance with law, regulation, SBHE Policy, or NDUS Procedure or from modifying the terms and conditions related to the NDSA Fee as set forth in Policy 803.5(c), except as set forth in this paragraph. It is the sense of the SBHE and NDSA that, as of the effective date of this policy, there is no conflict between this policy and the NDSA Constitution or Bylaws.

5. Any resolution(s) passed by the NDSA General Assembly which implicates or regards this policy shall be presented to either the Academic and Student Affairs Committee or the full SBHE at the next regular meeting.
6. The NDSA General Assembly may, by a three-quarters ($\frac{3}{4}$) vote, withdraw from this policy effective the end of the then-current semester without further action by the SBHE. In the event that the NDSA General Assembly exercises the option in this Paragraph, the NDSA Fee, along with other benefits enjoyed by public entities and NDUS-affiliated groups, may terminate as well.
7. As a public entity, the NDSA shall comply with all applicable laws, regulations, policies, and procedures which govern its activities.
8. The officers, ex officio officers, members, and any non-SBHE or non-NDUS employee advisors of the NDSA shall not be deemed employees of the SBHE or NDUS by sole reason of their service to or involvement in the NDSA. Officers and delegates of the SBHE may be designated as volunteer employees by their institutions of enrollment for the purposes of SBHE Policy 512.

References: North Dakota Constitution Art. VIII, Sec. 6(2)(a); SBHE Policies 512, 803.5

**NORTH DAKOTA
STATE BOARD OF HIGHER EDUCATION
Policy Manual**

Policy: 520 Title IX – Sexual Harassment

Effective: December 9, 2021

1. **Policy.** It shall be the policy of the State Board of Higher Education, the North Dakota University System, and the institutions under the SBHE’s control to fully comply with all aspects of Title IX of the Education Amendments of 1972 and the regulations promulgated under its authority. This Policy shall not govern compliance with any other anti-discrimination or anti-harassment statute, rule, or regulation. Failure by an employee of the SBHE, NDUS, or an institution to comply with the requirements of Title IX or this Policy may constitute a violation of Policy 308.1 – Code of Conduct or an institution’s code of conduct or employee handbook. Nothing in this Policy should be read to require fewer due process safeguards than would otherwise be provided by SBHE Policy 514.
2. **Definitions.** For the purposes of this Policy, the listed terms shall have the following definitions:
 - a. *Actual Knowledge.* Notice of sexual harassment or allegations of sexual harassment to an institution’s Title IX Coordinator or any institution official with authority to institute corrective measures on the institution’s behalf.
 - b. *Complainant.* An individual who is alleged to be the victim of conduct which could, after investigation, constitute sexual harassment.
 - c. *Dating Violence.* Violence committed by the respondent:
 - i. Who is or has been in a romantic or intimate relationship with the complainant; and
 - ii. Where the existence of such a relationship shall be determined by considering the length of the relationship, the type of relationship, and the frequency of interactions between the complainant and respondent.
 - d. *Deliberate Indifference.* When an institution’s response to sexual harassment is clearly unreasonable in light of the information known to the institution at the time.
 - e. *Domestic Violence.* Violence committed by the respondent, who is:
 - i. a current or former spouse or intimate partner of the complainant;
 - ii. a person with whom the complainant shares a child in common;
 - iii. cohabiting with or has cohabited with the victim as a spouse or intimate partner;

- iv. similarly situated to a spouse of the complainant; or
 - v. any person against whose acts the complainant is protected by N.D.C.C. ch. 14-07.1.
- f. *Education program or activity*. Includes locations, events, or circumstances over which an institution exercises substantial control over both the respondent and the context in which the sexual harassment occurs, as well as in any building owned or controlled by a student organization that is officially recognized by an institution.
 - g. *Fondling*. The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
 - h. *Formal Complaint*. A document filed by a complainant (which either contains the complainant's signature or indicates that the complainant is the one filing the complaint) or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the institution investigate.
 - i. *Incest*. Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - j. *Rape*. Penetration, no matter how slight, of the vagina or anus of the complainant with any body part or object by the respondent, or oral penetration of the complainant by a sex organ of the respondent, without the consent of the complainant.
 - k. *Respondent*. An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
 - l. *Sexual Assault*. Either rape, fondling, incest, statutory rape, or any of the sexual offenses listed in N.D.C.C. ch. 12.1-20 or by the FBI's Uniform Crime Reporting system.
 - m. *Sexual Harassment*. Conduct, on the basis of sex, constituting one (or more) of the following:
 - i. An employee of the institution conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct;
 - ii. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institution's education program or activity; or
 - iii. Sexual assault, dating violence, domestic violence, or stalking, as defined in

this section.

- n. *Stalking*. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional distress.
 - o. *Statutory Rape*. Sexual intercourse with a person who is under the statutory age of consent.
 - p. *Supportive Measures*. Non-disciplinary, non-punitive individualized services offered as appropriate (as reasonably available) and without fee or charge to the complainant or respondent.
3. **Title IX Coordinator**. Each institution must designate one or more employees to coordinate its efforts to comply with Title IX of the Education Amendments of 1972. This employee shall be referred to as the Title IX Coordinator.
- a. Each institution must notify applicants for admission and employment, students, and employees of the name or title, office address, email address, and telephone number of the Title IX Coordinator. This contact information must be prominently displayed on the institution's website and in each handbook or catalog that it makes available to any of the foregoing individuals.
 - b. The contact information of other institutional officials with authority to take corrective action need not be distributed as above.
 - c. The Title IX Coordinator's office may not be located in a building or office that restricts access to students or to certain students.
 - d. Nothing in this Policy shall prevent an institution from designating "deputy" or "assistant" Title IX Coordinators and delegate duties assigned to the Title IX Coordinator by this Policy, or the Title IX Coordinator from working with other administrative offices and personnel within an institution to coordinate Title IX compliance.
4. **Title IX Policy**. Each institution must notify applicants for admission and employment, students, and employees of its Title IX Policy.
- a. The notification must state:
 - i. That the institution does not discriminate on the basis of sex in its education program or activity;
 - ii. That Title IX and 34 C.F.R. 106 require the institution not to discriminate on the basis of sex;
 - iii. That the requirement not to discriminate extends to admission and

employment;

- iv. That inquiries about the application of Title IX and 34 C.F.R. 106 to the institution may be referred to the Title IX Coordinator, the Department of Education's Assistant Secretary for Civil Rights, or both.

- b. This policy must be prominently displayed on the institution's website and in each handbook or catalog that it makes available to any of the foregoing individuals.

- 5. **Grievance Procedures.** Each institution must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging sexual harassment or sex discrimination, and a grievance process that complies with this Policy. These grievance procedures shall only apply to sex discrimination and sexual harassment occurring within the United States.

- a. Each institution shall notify applicants for admission and employment, students, and employees of the institution's grievance procedures and grievance process, including, but not limited to, how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the institution will respond.

- 6. **Method of Reporting Sexual Harassment.** Any person may report sex discrimination, including sexual harassment (whether or not the person making the report is the victim of the alleged sexual harassment or sex discrimination). Such report may be made in person, by mail, by telephone, or by email, using the Title IX Coordinator's contact information or any other means which results in the Title IX Coordinator receiving the report, regardless of the time of day.

- 7. **Equitable Treatment.** At all times, institutions must treat complainants and respondents equitably by following a grievance process which complies with this Policy before the imposition of disciplinary sanctions, and by providing remedies to a complainant if a respondent is found to be responsible for sexual harassment.

- 8. **Pre-Grievance Process.**

- a. **Timing.** This grievance process shall be carried out using reasonably prompt time frames, including time frames for filing and resolving appeals, and for informal resolution processes if offered. Notwithstanding, temporary delays or extensions of the time frames must be offered for good cause, with written notice to the parties setting forth the cause for the action.

- i. *Good cause.* May include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for accommodations for language or disability.

- b. **Actual Knowledge of Sexual Harassment.** With or without the filing of a formal

complaint, once an institution has actual knowledge of sexual harassment within its educational program or activity in the United States, the institution must respond promptly and without deliberate indifference pursuant to this Policy and any applicable institutional policies.

- i. Once the institution has actual knowledge of sexual harassment, the Title IX Coordinator or designee must contact the complainant and:
 1. Discuss the availability of supportive measures;
 2. Consider the complainant's wishes regarding supportive measures;
 3. Inform the complainant that supportive measures are available with or without the filing of a formal complaint; and
 4. Explain the process of filing a formal complaint.
 - ii. No disciplinary sanctions or other actions which are not supportive measures may be imposed against a respondent prior to the conclusion of the grievance process.
- c. **Supportive Measures.** The institution may offer the complainant supportive measures designed to restore or preserve equal access to the education program or activity without unreasonably burdening the respondent, including measures designed to protect the health and safety of both parties or the educational environment, or to deter further sexual harassment.
- i. **Examples of Permissible Supportive Measures.** Institutions must tailor any supportive measures to the parties' situations. Some possible supportive measures include, but are not limited to:
 1. Counseling;
 2. Extensions of deadlines or other course-related adjustments;
 3. Modifications of work or class schedules;
 4. Campus escort services;
 5. Mutual restrictions on contact between the parties;
 6. Changes in work or housing locations;
 7. Leaves of absence; and
 8. Increased security or monitoring of certain areas of campus.
 - ii. The institution must maintain confidentiality with respect to supportive measures unless disclosure is required to implement the supportive measures.
 - iii. The Title IX Coordinator shall coordinate the effective implementation of supportive measures.
 - iv. Supportive measures may not restrict any party's rights under the United States Constitution.
- d. **Emergency Removal.** The institution may remove a respondent from the education

program or activity on an emergency basis, provided that the institution determines, based on an individualized safety and risk analysis, that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

- i. The institution must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.
- e. **Administrative Leave.** The institution may place a non-student employee respondent on administrative leave during the pendency of a grievance process.

9. **Grievance Process.**

a. **Formal Complaint and Notice of Allegations.**

- i. Once a formal complaint is received by the institution, the institution must provide the following written notice to the known parties:
 - 1. Notice of the grievance process, including any informal resolution process;
 - 2. Notice of the allegations of sexual harassment, including:
 - a. Sufficient details known at the time and with sufficient time to prepare a response, including, but not limited to, the names of the parties, the conduct allegedly constituting sexual harassment, and the date and location of the alleged conduct.
 - 3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
 - 4. A statement that the parties may have an advisor of their choice, who may be an attorney, and may inspect and review evidence. The statement should also indicate that if the party does not have an advisor of choice, the institution will appoint an advisor to assist with cross-examination for the live hearing.
 - 5. Notice of any provisions in the institution's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- ii. If during the course of the grievance process, additional allegations are added to the investigation which were not included in the initial notice, the institution must provide notice of the additional allegations to the parties.

b. Advisors.

- i. Parties to a grievance proceeding must be afforded the opportunity to select the advisor of their choice to assist them during the proceeding, including during the live hearing.
- ii. If a party does not choose an advisor, the institution shall provide the party with an advisor free of charge. At minimum, the institution shall provide an advisor to conduct the party's cross-examination at the hearing. However, nothing in this Policy or the Title IX regulations should be read to prohibit an institution to provide an advisor for the full duration of the grievance process, provided that the parties are treated equally as to timing insofar as the institution appoints advisors for both parties.
- iii. Institutions are not required to provide attorneys to parties to act as advisors, but appointed advisors should be provided with access to appropriate training to ensure an understanding of the grievance process, though the same training provided to Title IX Coordinators, decision-makers, and investigators is not required.
- iv. Institutions are not required to attempt to create equality of advisors between the parties, particularly where one party selects an outside advisor, but should endeavor to seek parity of advisors where the institution provides advisors to both parties.

c. Investigation.

- i. Institutions are required to investigate every filed formal complaint unless the complaint is subject to dismissal, below.
- ii. At all times, the burden of proof and the burden of gathering evidence sufficient to make a determination regarding responsibility rests on the institution, and the institution may not seek to shift that burden to the parties.
 1. Notwithstanding, the institution may not restrict the parties' ability to discuss the allegations or to gather or present relevant evidence.
- iii. At all times, the institution shall observe a presumption that respondent is not responsible for the alleged conduct until and unless there is a determination of responsibility at the conclusion of the grievance process.
- iv. Institutions may not access, consider, disclose, or otherwise use a party's medical records made or maintained in connection with the provision of treatment to the party, unless voluntary, written consent to do so is provided by the party (or the party's parent, if the party is not eligible to provide consent).

- v. Institutions may not require, allow, rely upon, or otherwise use evidence that constitutes, or questions that seek disclosure of, information protected under a legally-recognized privilege, unless that privilege is waived.
- vi. Institutions must provide to the parties written notice of the date, time, location, participation, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare.
- vii. The parties must be afforded an equal opportunity to have others present during any grievance proceeding, including their advisor, though the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, so long as the restrictions apply equally to both parties and comply with this Policy.
- viii. Both parties must have an equal opportunity to inspect and review any evidence obtained as part of the investigation related to the allegations raised in a formal complaint, including any evidence upon which the institution does not intend to rely in reaching a determination of responsibility and any inculpatory or exculpatory evidence, from whatever source.
- ix. At least 10 days prior to the preparation of the investigative report, the institution must provide each party and the party's advisor the evidence obtained in the investigation in an electronic format or hard copy. The parties may submit a written response to the evidence, which the investigator shall consider prior to completion of the investigative report.
- x. At the conclusion of the investigation, the investigator must create an investigative report that fairly summarizes the relevant evidence. At least 10 days prior to the hearing, the investigator must send a copy of the investigative report to each party and the party's advisor, if any, for review and written response.

d. Dismissal.

i. Mandatory Dismissal.

- 1. The institution must dismiss the formal complaint if, at any time during the investigation or hearing:
 - a. The conduct alleged would not constitute sexual harassment as defined in this Policy even if proved;
 - b. The conduct alleged did not occur in the education program or activity; or
 - c. The conduct alleged did not occur against a person in the United States.

2. If the formal complaint is subject to mandatory dismissal, the institution may take action under another provision of the code of conduct without that action constituting retaliation under this Policy.

ii. **Permissive Dismissal.**

1. The institution may dismiss the formal complaint if, at any time during the investigation or hearing:
 - a. A complainant notifies the Title IX Coordinator, in writing, that the complainant would like to the withdraw the formal complaint or any allegations contained in the formal complaint;
 - b. The respondent is no longer enrolled or employed by the institution; or
 - c. Specific circumstances prevent the institution from gathering evidence sufficient to reach a determination as to the formal complaint or allegations in the formal complaint.
2. In the event that a formal complaint is permissively dismissed, the institution should consult with its legal counsel prior to taking action under another provision of its code of conduct to avoid taking actions constituting retaliation.

- iii. **Notice of Dismissal.** Upon a dismissal pursuant to this section, the institution must promptly send written notice of the dismissal and reasons therefore to both parties simultaneously.

- e. **Consolidation of Formal Complaints.** An institution may consolidate formal complaints against more than one respondent, by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

f. **Live Hearing.**

- i. The grievance process must provide for a live hearing after the completion of the investigative report. All evidence obtained by the investigator as part of the investigative process must be made available to the parties and the decision-maker at the live hearing.
- ii. The live hearing will be presided over by the decision-maker, who may not be the investigator or the Title IX Coordinator.
 1. The decision-maker may be one individual or more than one individual as set by institution policy. Institution policy must specify the process by which the decision-maker is selected.

- iii. At the request of either party, the hearing must be conducted with the parties located in separate rooms with technology enabling the decision-maker and parties to simultaneously see and hear the party or witness answering questions. Hearings may be conducted with all parties physically present in the same geographic location, or, any parties, witnesses, and other participants may appear at the live hearing virtually, so long as the participants are able to simultaneously see and hear each other.
- iv. At the live hearing, the decision-maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those questioning credibility. This cross-examination must be conducted directly (the questions may not be asked by the decision-maker), orally, and in real time by the party's advisor and never by a party personally.
 - 1. Prior to a party or witness answering a question, the decision-maker must rule on the relevance of the question and explain any decision to exclude a question as not relevant.
 - 2. Decision-makers may request, but may not require, that questions by the parties be submitted in advance, to permit the decision-maker to rule on the relevance of questions.
 - 3. The institution may otherwise limit the extent to which the party's advisor may participate in the hearing by institution policy, but should consult with legal counsel prior to imposing any significant limitations.
- v. *Rape Shield*. Questions and evidence about the complainant's sexual predisposition or sexual history are not relevant, unless such questions are offered to prove that someone other than the respondent committed the alleged conduct, or regard specific incidents of the prior sexual behavior with respect to the respondent and are offered to prove consent.
- vi. *Cross-Examination*. If deemed reliable and relevant by the decision-maker, and not otherwise subject to exclusion under the Policy, the decision-maker may consider the statements of persons who were not present at the hearing, or persons who were present at the hearing but refused to answer a cross-examination question. This includes, but is not limited to, opinions and statements in police reports or other official reports, medical records, court records and filings, investigation notes of interviews, emails, written statements, affidavits, text messages, and social media posting. The decision-maker shall determine the appropriate weight to afford the statements under the circumstances and will do so in a fair and equitable manner. Decision-makers may not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence or refusal to answer cross-examination or other questions.

- vii. *Hearing Decorum.* Decision-makers may enforce rules to ensure hearing decorum, such as requiring respectful treatment, specifying any objection process, governing timing of hearing and length of breaks, etc.
- viii. The institution must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

g. Determination Regarding Responsibility.

- i. *Standard of Evidence.* All decisions in grievance processes under Title IX in the North Dakota University System shall require a determination of responsibility based on the preponderance of the evidence.
- ii. After the conclusion of the live hearing, the decision-maker must issue a written determination regarding responsibility, which must include:
 - 1. Identification of the allegations potentially constituting sexual harassment;
 - 2. Description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
 - 3. Findings of fact supporting the determination;
 - 4. Conclusions regarding the application of the institution's code of conduct to the facts;
 - 5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the respondent, and whether remedies will be provided to the complainant; and
 - 6. The procedures, timelines, and permissible bases for the complainant and respondent to appeal.
- iii. The written determination must be provided to the parties simultaneously. The determination regarding responsibility becomes final either on the date that notice of the result of any appeal is provided to the parties, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.
- iv. The Title IX Coordinator shall be responsible to implement any remedies provided by the written determination.

10. Disciplinary Sanctions. Disciplinary sanctions imposed after the conclusion of the grievance process shall be assessed pursuant to the institution's code of conduct, student handbook, employee handbook, or similar document which sets possible disciplinary sanctions for violations of Title IX or code of conduct, and shall be proportional to the determination of

responsibility. Disciplinary sanctions may not be imposed until the conclusion of the Title IX appeal process.

11. **Remedies.** Remedies offered after the conclusion of the grievance process on a finding of responsibility must be designed to restore or preserve equal access to the education program or activity. Remedies need not be non-disciplinary or non-punitive, and need not avoid burdening the respondent.

12. **Title IX Appeal Process.**

- a. Both parties must be offered the opportunity to appeal from a determination regarding responsibility or from the dismissal of a formal complaint (or any allegations within the formal complaint). The following may form the basis for an appeal:
 - i. Procedural irregularity that affected the outcome of the grievance process;
 - ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could have affected the outcome of the matter; or
 - iii. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or for or against the individual complainant or respondent, that affected the outcome of the grievance process.
 - iv. Other basis set forth in the campus-level processes, but which must be offered equally to both parties (for example, an appeal based on the severity of the sanctions).
- b. Upon filing of an appeal, the institution must:
 - i. Notify the non-appealing party in writing when an appeal is filed and implement appeal procedures equally for both parties.
 - ii. Ensure that the appeal's decision-maker is not the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator.
 - iii. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
 - iv. Issue a written decision describing the result of the appeal and the rationale for the result; and
 - v. Provide the written decision simultaneously to both parties.

- c. Upon conclusion of the Title IX appeal process or on the date following the deadline for filing an appeal pursuant to this section, institutions may implement any remedies or disciplinary sanctions imposed in the determination regarding responsibility or upheld on appeal, as appropriate. In the event that a disciplinary sanction of suspension or expulsion is imposed on a student by the decision-maker, institutions shall provide a method of reviewing an additional appeal from a determination regarding responsibility for a period of at least one year following the original decision pursuant to SBHE Policy 514. Such appeals may only be filed based on new information, contradictory information, and information indicating that the student or student organization was not afforded due process, and such appeal may not be based on grounds previously raised during the Title IX appeal process.

13. Informal Resolution. An institution may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, a waiver of the right to an investigation and adjudication of formal complaints, and may not require the parties to participate in an informal resolution process. Similarly, institutions may not offer an informal resolution process unless a formal complaint is filed. Notwithstanding, at any time before the written determination is issued, the institution may facilitate an informal resolution process that does not involve a full investigation and adjudication, so long as the institution:

- a. Provides the parties a written notice disclosing the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- b. Obtains the parties' voluntary, written consent to the informal resolution process; and
- c. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

14. Training.

- a. All persons involved in the grievance process, including, but not necessarily limited to, Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must receive training on the following areas:
 - i. The definition of sexual harassment;
 - ii. The scope of the education program or activity;

- iii. How to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes, as applicable;
 - iv. How to serve impartially, including by avoiding prejudgment of the facts at issue; conflicts of interest, and bias.
- b. Additionally, decision-makers must receive training on the following areas:
 - i. Any technology to be used at a live hearing;
 - ii. Issues of relevance or questions and evidence, including when questions about the complainant's sexual predisposition or prior sexual behavior are not relevant;
- c. Investigators must also be trained on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
- d. All materials used to train the foregoing individuals must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints.
- e. To the extent an institution intends to engage with shared services and personnel, institutions shall work with the NDUS Office to ensure that the foregoing training is sufficient and, to the extent practicable, uniform, along with any questions of shared services and costs.
- f. All training materials used to train the foregoing individuals must be made available to the public by posting on the institution's website.

15. Recordkeeping.

- a. Each institution shall retain, for a period of seven years, records of:
 - i. Each sexual harassment investigation, including any determination regarding responsibility; any audio or audiovisual recording or transcript; any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant.
 - ii. Any appeal and the result therefrom;
 - iii. Any informal resolution and the result therefrom;
 - iv. All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, which the institution must make available on its website.
- b. Each institution must create and maintain for seven years, records of any actions,

including records of supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the institution must document the basis for its response was not deliberately indifferent, and document that it took supportive measures, or, if supportive measures were not provided, an explanation of why such a response was not clearly unreasonable in light of the known circumstances.

16. Retaliation.

- a. No institution or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by title IX or this part, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part.
- b. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or this part, constitutes retaliation.
- c. The exercise of rights protected under the First Amendment does not constitute retaliation.
- d. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation, although a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.
- e. Complaints alleging retaliation may be filed pursuant to the grievance procedures for sex discrimination under Title IX.

17. Confidentiality. Notwithstanding Chapter 44-04 of the North Dakota Century code, the identity of any individual who has made a report or complaint of sex discrimination or sexual harassment, any complainant, any respondent, and any witness, including the conduct of any investigation, hearing or judicial proceeding arising thereunder, shall be confidential.

18. Policy Conflicts. Any conflicts between this Policy and any existing SBHE Policy, NDUS Procedure, institution policy or procedure, or student or employee handbook shall be resolved in favor of this Policy. Speech or conduct which does not meet the definition of Sexual Harassment under this policy may be addressed pursuant to SBHE Policy 503.1.

19. Institution Policies and Procedures; NDUS Procedures. Each institution shall create and implement policies and procedures implementing this SBHE Policy no later than the Effective Date of this Policy. The Chancellor may create procedures to implement any shared

services or personnel or to assist with any cooperative efforts between institutions.

20. **Shared Services and Cooperation between Institutions.** All institutions should work collaboratively with other institutions, the NDUS Office, legal counsel, and other resources and seek uniformity in processes and procedures to the greatest extent possible. Institutions may enter into agreements with other institutions or the NDUS Office to arrange for the availability of investigators, advisors, decision-makers, and individuals to facilitate an informal resolution process. Such agreements must include arrangements to share the costs of utilizing shared personnel, potential issues posed by FERPA and the confidentiality requirements of this Policy, and other issues raised by legal counsel.

21. **Effective Date.** This Policy shall take effect on August 14, 2020. If the Final Rule on Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, published at 85 Fed. Reg. 30,026 *et seq.*, is enjoined, delayed, or invalidated, this Policy shall not take effect until such a time as the Final Rule goes into effect.

References: Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 85 Fed. Reg. 30,026; N.D.C.C. ch. 12.1-20; N.D.C.C. § 15-10-56 (3)(a); N.D.C.C. ch 44-04, SBHE Policies 308.1, 503.1, 514

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Policy: 601.1 Presidential Searches

Effective: February 25, 2020

1. The SBHE is responsible for appointment of institution presidents within the NDUS. Selection of a president is final only upon SBHE action.
2. The Chancellor is responsible for overseeing the presidential search process in accordance with this policy and corresponding NDUS procedures.
3. Upon indication the position of an institution president will be vacant, the Chancellor shall appoint a search committee to conduct a search for a new president. The SBHE may also retain the services of a consultant to assist the search committee in its work.

The Chancellor also shall recommend to the SBHE an interim president to fill the vacancy until the search process is complete. The SBHE may appoint the recommended individual, ask for additional recommendations, or appoint someone directly. The SBHE shall set the terms and conditions of the interim president's contract.

4. Upon completion of its work, the search committee shall meet with the Chancellor to obtain the Chancellor's input on the candidates. The search committee is expected to forward three or more names to the SBHE for further consideration. The SBHE may choose to interview any number of those candidates or reject the committee's recommendations. If the SBHE rejects all the recommendations, it may choose to interview other candidates or charge the committee with resuming the search process.
5. After the SBHE interviews candidates, it may choose to appoint one of them to the position of institution president or charge the committee with resuming the search process. Prior to the appointment of a new president, the SBHE shall approve the form of the new president's contract. The SBHE may appoint its Chair or one of its members to negotiate within the framework of the form contract and give final approval to the negotiated agreement.
6. The institution shall pay all costs of a search, including search committee, SBHE, and NDUS office costs.

Reference: NDUS Procedure 601.1

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Policy: 601.2 Acting Chief Executive Officer

Effective: June 30, 2020

1. In the event that the chief executive officer of an institution vacates their position without sufficient notice for the SBHE to appoint an interim president, or an existing chief executive officer becomes disabled or is otherwise expected to be unable to exercise the duties of their office for a period of more than fourteen days, the Chancellor, in consultation with the SBHE Chair and the institution's administration, may appoint an Acting President (or Acting Dean, if the chief executive officer of the institution has the title of Dean). Where appropriate and practicable, the Acting Chief Executive Officer shall be appointed pursuant to an existing institutional succession or person-in-charge policy, and in all circumstances must be a current employee of the NDUS or the institution to ensure continuity and compliance with veterans preference policies.
2. The appointment of an Acting President (or Dean) shall last no longer than the earliest of:
 - a. The next regular SBHE meeting (at which the SBHE may continue the appointment until the next regular SBHE meeting);
 - b. The starting date of a duly appointed interim President (or interim Dean); or
 - c. The institutional chief executive officer resumes their duties.
3. An Acting President (or Dean) may receive a temporary increase in their salary for an appointment of more than 30 days, for the duration of the appointment, in the discretion of the Chancellor and the SBHE Chair, in consultation with the institution. Such an increase shall be subject to availability of institutional funds.

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Policy: 602.2 Report on Faculty Appointments

Effective: November 19, 1999

Each institution shall annually report to the NDUS office current numbers of full-time tenured, probationary and other faculty appointments at the institution, including numbers in each college or department.

Reference: NDUS Procedure 602.2.1

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Policy: 602.3 Job Applicant and Employee Criminal History Background Checks

Effective: June 24, 2015

1. Each institution and the NDUS office shall adopt a policy or procedure regarding criminal history background checks on job applicants.
2. A nationwide FBI criminal history background check is required before beginning employment in the following positions:
 - a. Police officer;
 - b. Security guard; and
 - c. University police dispatcher/call center operators.
3. The Chancellor shall adopt an implementing procedure and designate the positions, including those listed in SBHE Policy 602.3(2), for which nationwide FBI criminal history background checks are authorized under N.D.C.C. § 12-60-24. The procedure may include uniform requirements or guidelines that apply to all institutions and the NDUS office.

References: N.D.C.C. § 12-60-24; NDUS Procedures 511, 602.3

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Policy: 603.1 Harassment and Discrimination

Effective: July 23, 2020

1. Each institution and the NDUS office shall:
 - a. Adopt a policy, consistent with applicable state and federal laws and regulations, prohibiting harassment or discrimination that may be sexual, racial, or based on gender, national origin, age, disability, religion, sexual orientation, or on information protected by the Genetic Information Nondiscrimination Act (GINA), in connection with any activities associated with the institution;
 - b. Disseminate the policy to all current and new employees and to all students through appropriate publications;
 - c. Provide instruction regarding the policy in employee training programs;
 - d. Periodically review the effectiveness of the policy;
 - e. Maintain records relating to harassment and discrimination, including a record of all complaints filed; and
 - f. Provide as part of the policy a procedure within the institution for the reporting, investigation and disposition of harassment and discrimination complaints.
2. Institution policies shall include provisions governing relationships between faculty or other institution employees and students. Policies shall, at minimum, explicitly prohibit any form of sexual harassment of students, require disclosure by an employee of a romantic or sexual relationship with a student when the employee is responsible for actions affecting the student's academic standing, grades, scholarship or grant awards or employment at the institution, and establish procedures for eliminating a conflict or potential conflict of interest in the exercise of the employee's authority.
3. The SBHE, NDUS, and institutions shall employ and treat persons on the basis of merit without unlawful discrimination due to race, religion, color, national origin, age, gender, physical or mental disability, status with regard to marriage or public assistance, sexual orientation, participation in lawful activity off the employer's premises during nonworking hours, or information protected by the Genetic Information Nondiscrimination Act (GINA). Additionally, institutions shall fully comply with all elements of Title VI of the Civil Rights Act of 1964, as amended, Title VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, Section 304 of the Violence Against Women Act, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, the

Americans with Disabilities Act, Section 504 of the Rehabilitation Act, the Age Discrimination in Employment Act, Section 1557 of the Patient Protection and Affordable Care Act, and the Nondiscrimination in Federal Health Programs regulation, and similar statutes to the extent applicable, and shall adopt policies and procedures designed to facilitate such compliance.

4. Sexual Harassment within the meaning of Title IX of the Education Amendments of 1972 shall be governed by Policy 520 and to the extent that any conflict between this Policy and Policy 520 is created, Policy 520 shall prevail.

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Policy: 603.2 Equal Employment Opportunity

Effective: August 1, 2015

1. Every vacant position shall be filled based upon applicants' qualifications and performance requirements of the job. Discrimination against an employee or applicant based on sex, race, color, religion, age, physical or mental disability, pregnancy, status with regard to marriage or public assistance, sexual orientation, participation in lawful activity off the employer's premises during nonworking hours or on genetic information in appointment, promotion, salary, benefits or conditions of employment is prohibited.
2. Discrimination against an employee or applicant for employment, with respect to working conditions, work place assignment, or other privileges of employment, merely because the employee's or applicant's spouse is also an employee is prohibited. This prohibition does not apply to employment of the spouse of an individual who has the power to hire or fire, or make evaluations of performance, with respect to the individual involved. Employment in a department or institution headed or supervised by the employee's spouse is permitted only if the spouse does not have the power to hire or fire or make evaluations of performance and such employment is consistent with SBHE Policy 603.3.

Reference: N.D.C.C. §§ 14-02.4-03, 15-10-17(4), and 34-11.1-04.1; SBHE Policy 603.3

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Policy: 603.3 Nepotism

Effective: April 18, 2002

1. NDUS officers and employees shall comply with N.D.C.C. § 44-04-09, relating to nepotism. Accordingly, an officer or employee may not, except as permitted by law, serve in a supervisory capacity over, or enter into a personal services contract with, a member of the officer's or employee's immediate family.
2. When two or more members of the same immediate family are employed in the same department or institution, the head of the department or institution shall reassign responsibility for performance evaluations, salary recommendations, disciplinary actions and other supervisory authority as necessary to comply with N.D.C.C. § 44-04-09.
3. "Immediate family" means a parent by birth or adoption, spouse, son or daughter by birth or adoption, stepchild, brother or sister by whole or half blood or adoption, brother-in-law or sister-in-law, or son-in-law or daughter-in-law.
4. The Chancellor may adopt procedures to ensure compliance with this policy.

References: N.D.C.C. §§ 34-11.1-04.1 and 44-04-09; NDUS Procedure 603.3

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Policy: 604.1 Performance Evaluations: Presidents

Effective: September 5, 2012

1. The Chancellor shall evaluate the individual performance of the presidents on an annual basis. These evaluations are intended to provide:
 - a. A means by which incumbents may review their own performance;
 - b. A procedure to establish new, short- and long-term goals for the ensuing months and years; and
 - c. An opportunity to receive comments and ideas as to possible ways in which the management and planning functions of the NDUS and its constituent institutions might be improved.
2. Each president shall prepare for Chancellor review and approval an annual goals statement identifying a focused set of goals the president hopes to attain during the coming year, including implementation strategies and timelines, in support of the SBHE strategic direction. The goals should be stated concisely, with the understanding they may be revised during evaluation sessions. Absent other instructions from the Chancellor, generally each president shall have five goals, including three identified by the president and two identified by the Chancellor. One goal identified by each president shall address resource development, including fundraising, sponsored research, private-public partnerships and other entrepreneurial activities.
3. Performance review.
 - a. The performance of each president shall be reviewed annually by the Chancellor at a time designated by the Chancellor.
 - b. The review of a president shall be based upon a statement of goals for the year of evaluation which were previously formulated by the president and approved by the Chancellor. In advance of the review session with the Chancellor, the president shall submit a statement detailing the approved goals, along with a description of progress to date toward achieving those goals. Additional material may be submitted at the discretion of the president or at the request of the Chancellor.

- c. In preparation for the coming year, the president shall submit to the Chancellor at the evaluation session a statement of the principal issues presently confronting the institution and a revision of the previous year's goals in connection with those issues. The evaluation of present performance will form the basis for discussion between the Chancellor and the president of the revised goals statement and the relationship between present performance and the future direction of the institution. The outcome of this process will be a set of goals for the institution for the coming year which have been approved by the Chancellor. The Chancellor shall seek SBHE input regarding presidential performance.
- d. After the results of the annual review have been separately shared with each president, the Chancellor shall review with the SBHE the results of the presidents' annual reviews.
- e. The Chancellor shall periodically complete a broad-based, comprehensive evaluation of each president, seeking input from key constituents. The Chancellor may use external consulting assistance for this purpose.

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Policy: 604.2 Performance Evaluation: Chancellor

Effective: September 5, 2012

1. The performance of the Chancellor shall be reviewed annually by the SBHE in a meeting with the Chancellor at a time designated by the SBHE president.
2. The performance review of the Chancellor shall be based upon a statement of goals for the year of evaluation which were formulated by the Chancellor and approved by the SBHE.
 - a. In advance of the review session with the SBHE, the Chancellor shall submit a statement detailing the approved goals, along with a description of progress to date toward achieving those goals. Additional material may be submitted at the discretion of the Chancellor or at the request of the SBHE.
 - b. In preparation for the coming year, the Chancellor shall submit to the SBHE at the evaluation session a statement of the principal issues presently confronting the NDUS and a revision of the previous year's goals in response to those issues.
 - c. The evaluation of the Chancellor's performance should form the basis for discussion between the SBHE and the Chancellor of the revised goals statement and the relationship between present performance and the future direction of the NDUS. The outcome of this process should be a set of goals for the NDUS for the coming year and that have been agreed upon by the Chancellor and the SBHE.

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Policy: 604.3 Performance Evaluations: Benefited Employees

Effective: October 31, 2019

1. All benefited NDUS employees shall have an annual written and verbal performance development review that includes evaluation of performance based upon mutually agreed upon development plans or goals. Procedures governing faculty shall be consistent with requirements stated in SBHE Policy 605.1. Requirements for employees included within the broadbanding system are stated in section 17 of the NDUS Human Resource Policy Manual; those requirements shall also apply to all other employees except faculty.
2. All merit pay increases must be supported by current written performance reviews and consistent with a salary administration plan adopted under SBHE Policy 702.4.

References: SBHE Policies 605.1, 702.4

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Policy: 605.1 Academic Freedom and Tenure; Academic Appointments

Effective: October 24, 2019

1. An institution is a forum for ideas, and it cannot fulfill its purpose of transmitting, evaluating, and extending knowledge if it requires conformity with any orthodoxy of content and method. Academic freedom and tenure are both important in guaranteeing the existence of such a forum. This policy is intended to enable institutions under the authority of the SBHE to protect academic freedom.
2. The purpose of tenure is to assure academic freedom. Academic freedom applies to all scholarly pursuits. Freedom in scholarship is fundamental to the advancement of knowledge and for the protection of the rights of the faculty members and students. It carries with it duties and responsibilities correlative with rights. These duties and rights are set forth in SBHE Policy 401.1, relating to academic freedom, and the 1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments, adopted by the American Association of University Professors and the Association of American Colleges. These policies apply to all institution faculty unless otherwise indicated.
3. Tenure is awarded by the SBHE upon recommendation of the Chancellor, following review and recommendations made pursuant to the procedures established at the institution and a recommendation by the institution's president to the Chancellor. A favorable recommendation means that the applicant meets the prerequisites and criteria and the award of tenure is consistent with the sound fiscal management and academic priorities of the institution and the system of education under the control of the SBHE. Tenure recommendations submitted to the SBHE shall include a brief summary of the candidate's qualifications and reasons for the recommendation. Tenure is not an entitlement, and the granting of tenure requires an affirmative act by the SBHE. Tenure is limited to the academic unit or program area in the institution in which tenure is granted and shall not extend to an administrative or coaching position.
4. For purposes of SBHE Policies 605.1, 605.2, 605.3 and 605.4:
 - a. "Academic year" means the period, approximately nine months in duration, starting with the beginning of the fall semester and ending following completion of the spring semester.
 - b. "SBHE" means the North Dakota state board of higher education.
 - c. "Faculty" means all members of the academic staff, excluding coaches and administrators in their capacities as coaches or administrators.

- d. "Receipt" means either actual or constructive receipt. Constructive receipt means the sending party has taken all reasonable steps to ensure that the receiving party has received actual notice.
5. Because of the variety of scope and organizational structure of the institutions under the control of the SBHE, the faculty governance structure at each institution shall recommend procedural regulations to the president to implement SBHE Policies 605.1, 605.2, 605.3 and 605.4, in accordance with SBHE Policy 305.1:
- a. Institution procedural regulations must include:
 - i. Procedures for continuing evaluation of both probationary and tenured faculty members; and
 - ii. Criteria and procedures by which faculty members are evaluated and recommended for tenure.
 - b. The criteria for tenure evaluation and continuing evaluation of probationary and tenured faculty shall include scholarship in teaching, contribution to a discipline or profession through research, other scholarly or professional activities, and service to the institution and society. Institutions may adopt additional criteria. The regulations defining these criteria shall be consistent with the nature and mission of the institution.
 - i. Institutions shall establish various tenure plans appropriate to the diverse missions of individual institutions, designed to encourage emphasis on research, scholarship in teaching, service, and other areas of emphasis. Scholarship in teaching may include the use of technology or other innovative teaching methods. Service may include technology transfer and economic development. Institution regulations shall include guidelines for determining the proper weight distribution of the criteria for tenure evaluation and continuing evaluation. The guidelines shall provide for varying emphases on the enumerated criteria based upon the faculty member's plan, the needs of the institution and the background, abilities and interests of the faculty member.
 - ii. Tenured and probationary faculty contracts shall identify the faculty member's tenure plan and describe the faculty member's duties and goals. The contracts shall specify the distribution of the criteria used for evaluating performance. The contract provisions shall be reviewed and, when appropriate, revised as a part of the faculty member's periodic evaluations.
 - c. Eligibility for tenure requires a probationary period of six years of continuous academic service to the institution, during which the faculty member is evaluated at least annually according to an evaluation process designed to foster continuous improvement. The term may be extended beyond six years or the continuous service requirement may be waived in exceptional circumstances. Institutions shall establish procedures for granting extensions or waivers of the continuous service requirement in exceptional circumstances, including maternity or parental leave and appropriate accommodations for faculty members with disabilities. Institution procedures may

define additional exceptional circumstances including family emergencies or extended illness.

- d. An institution may decline to renew the contract of a probationary faculty member without cause at any time during the probationary period, subject to procedural requirements in SBHE Policies 605.1, 605.2, 605.3, and 605.4.
6. Faculty appointments shall be probationary, tenured or special.
- a. Probationary appointments are renewable annually and yield credit toward tenure. The probationary term is limited to six years of continuous academic service, excluding extensions to the term or exceptions to the continuous service requirement granted in exceptional circumstances.
 - i. An individual with previous professional experience may, at the discretion of the institution, be given tenure credit not to exceed three years for this experience, with such credit to be regarded as academic service to the institution for the purpose of these regulations. The faculty member shall be informed in writing of this policy and the institution's decision before or at the time of appointment.
 - ii. Time spent on leave of absence or developmental leave may be counted, up to a maximum of two years, as academic service for the purposes of these regulations. The amount shall be determined, and the faculty member informed in writing, including any applicable conditions, before authorization of the leave.
 - b. Tenured appointments recognize a right, subject to SBHE policy, to continuous academic year employment in an academic unit or program area as defined by an institution and stated on the contract. A faculty member shall qualify to be recommended for a tenured appointment by satisfying the criteria for tenure developed in accordance with SBHE Policy 605.1(5).
 - i. The following persons are not eligible for tenured appointment:
 1. Faculty members with a part-time or temporary appointment. However, faculty members who have been awarded part-time tenure as established by previous SBHE policy and those who accept a part-time appointment after being awarded tenure in a full-time position shall continue to have such tenure recognized.
 2. An institution's president, except under subdivision 6(b)(ii).
 - ii. The Board may, following review and recommendations made pursuant to the procedures established at an institution award tenure in exceptional circumstances, defined by the institution's procedures, to an institution's chief academic officer or to any other person appointed to the faculty who has not met the eligibility requirement of subdivision 5(c) of this policy, provided that the person, at the time tenure is granted, has:
 1. held a tenured appointment at another institution, or

2. been a faculty member at the institution for at least one prior academic year.
 - iii. The SBHE may award tenure to an institution's current chief executive officer if they have held a tenured appointment at another institution. If a chief executive officer granted tenure under this subdivision resigns their position or is terminated, that individual may request appointment as a tenured faculty member. If such a request is received, the SBHE shall determine whether to offer that individual a tenured faculty position at their former institution. The compensation for such a tenured faculty position shall be commensurate with similar positions in the department, and such compensation shall be paid from the institution's general funds, rather than a departmental budget.
 - iv. The SBHE may award tenure to any individual appointed to the faculty who has not met the eligibility requirements of subdivisions 5(b) and 5(c) of this policy in exceptional circumstances, defined by the institution's procedures, following review and recommendation made pursuant to the procedures established at an institution. The individual shall possess a documented record of outstanding achievement and consistent excellence in a discipline or profession gained through research, scholarly or professional activities, or service.
- c. Special appointments do not involve either tenure credit or status. Special appointments are all appointments except tenured or probationary appointments, including:
- i. Courtesy adjunct appointments awarded in accordance with SBHE policy to professional people who contribute to the academic or research program of the institution;
 - ii. Visiting appointments for people holding academic rank at another institution of higher education;
 - iii. Appointments of retired faculty members on special conditions;
 - iv. Initial appointments supported wholly or partially by other than state appropriated funds;
 - v. Appointments clearly limited to a brief association with the institution, as defined by the institution;
 - vi. Terminal appointments given with notice of nonrenewal to faculty members who were previously on probationary appointment. A terminal appointment with notice of nonrenewal must be given to a faculty member no later than the end of the sixth year of probationary appointment if the decision is made to deny tenure;

- vii. Part-time faculty;
 - viii. Lectureship appointments, which shall be for performance of specifically assigned academic duties only, without general faculty responsibilities;
 - ix. Graduate teaching assistant appointments;
 - x. Postdoctoral fellowships and clinical appointments; and
 - xi. Other faculty appointments, not probationary or tenured, that are designed to help fulfill the institution's mission or meet long-term needs. The appointments shall be subject to an agreement describing the faculty member's duties and goals, criteria and weight distribution for evaluation criteria. The term of an appointment and agreement, or renewal thereof, may not exceed three years. The faculty member's performance and achievement of goals shall be evaluated during the final year of an appointment. An appointment may be renewed only if the evaluation demonstrates satisfactory performance.
7. The general terms and conditions of appointment shall be provided the appointee in a written contract. The contract shall state whether the appointment is probationary, tenured or special. The term of a contract, except contracts made pursuant to subdivision 6(c)(xi), shall generally not exceed one year. A multiple-year contract is subject to termination upon discontinuance of the program in which the faculty member is employed, non-appropriation or loss of funds, or other financial exigency. For faculty on nine- or ten-month contracts covering the traditional academic year, institutions shall, not later than June thirtieth each year, provide notice of renewal terms with a contract, agreement or appointment letter to be signed by both parties. Absent good cause or agreement extending or establishing a different deadline, faculty shall sign and return a contract or other document indicating acceptance of contract terms not later than July twentieth. Institutions shall establish procedures providing that failure to return a signed contract or other document indicating acceptance of contract terms by July twentieth constitutes a resignation resulting in termination of employment, effective July twentieth, except for good cause shown by the faculty member or unless the institution has granted an extension. Before the end of the spring semester each year, institutions shall provide notice to faculty summarizing the process and deadlines for contract renewal, including information on extending deadlines to accommodate faculty who may be traveling or not able to readily receive and respond to communications during summer months.
8. The institutional process for evaluation of faculty, the criteria and minimum expectations for promotion and for tenure, and provisions concerning required notices, shall be made known to the appointee at the time of appointment. This disclosure may be accomplished by a published description of the process, criteria, and expectations in a faculty handbook or similar document. Such provisions are subject to change according to processes established for adoption or Amendment of SBHE and institutional policies. Institution procedures shall provide for annual evaluation of all full-time faculty. The procedures shall include provisions requiring that evaluations are completed in a timely and appropriate fashion and that the

institution takes appropriate remedial action in response to unsatisfactory evaluations. Evaluation criteria shall relate to a faculty member's duties and goals and be appropriately weighted in accordance with the terms of the faculty member's contract. Evaluations of all teaching faculty must include significant student input.

References: SBHE Policies 305.1, 401.1, 605.1 through 605.4; NDUS Procedure 605.1

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Policy: 605.2 Standing Committee on Faculty Rights

Effective: February 23, 2022

1. Each institution shall have a standing committee on faculty rights consisting of three, five, or seven tenured faculty members elected for staggered terms by the faculty governance structure. The committee shall elect its own presiding officer annually and shall hold formal hearings in accordance with the procedures described in SBHE Policy 605.4 on all matters referred to it under these policies. The committee shall judge any allegation of bias or conflict of interest. If an individual member is judged by the committee to be biased or to have a conflict of interest in a specific case, the committee shall replace the member with a substitute member for that case.
2. Each institution shall adopt procedures concerning mediation implementing SBHE Policy 605.5. Institutions shall pay all mediation costs.
3. Proceedings before a standing committee on faculty rights shall be closed to the public, unless the faculty member requests that the proceedings be open, in which case the proceedings shall be open.

References: SBHE Policies 605.4, 605.5

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Policy: 605.3 Nonrenewal, Termination or Dismissal of Faculty

Effective: April 29, 2021

1. A probationary appointment may be terminated, without cause, with notice to the faculty member that the appointment will not be renewed.
 - a. Notice shall be given:
 - i. At least 90 days prior to termination during the first year of probationary employment at the institution.
 - ii. At least 180 days prior to termination during the second year of probationary employment at the institution.
 - iii. At least one year prior to termination after two or more years of probationary employment at the institution.
 - b. A department chair, dean or other person authorized under institution policies to give such notice shall provide written notice of the decision, including a reference to the policy section pursuant to which the action is taken. The faculty member may within ten calendar days after receipt of the notice request a reconsideration by the deciding body or individual. The faculty member may incorporate a request for mediation in the request for reconsideration. The institution shall respond in writing to the faculty member within ten calendar days after receipt of the request.
2. An institution may terminate a probationary appointment effective at the end of any contract term, with no less than 90-day notice of nonrenewal based upon a determination by the Board that a financial exigency exists which requires such action at an institution or institutions, or upon determination by the institution that such action is necessary because of loss of legislative appropriations, loss of institutional or program enrollment, consolidation of organizational units or program areas or elimination of courses. The notice of nonrenewal shall include a reference to the policy section pursuant to which the action is taken. When a probationary appointment is terminated pursuant to this subsection, the provisions of subsection 1 do not apply.
3. A special appointment terminates at the end of the term stated on the contract and may be renewed at the discretion of the institution.
4. The following individuals may request review of the below decisions and a hearing by the Standing Committee on Faculty Rights:
 - a. A faculty member on a probationary appointment which is not renewed; or
 - b. A faculty member whose special appointment that is terminated.

The request for review and a hearing must be made within twenty calendar days after receipt of notice of the proposed action or, if the faculty member requests reconsideration or the parties agree to mediation pursuant to this Policy, within twenty calendar days of receipt of the results of the reconsideration or conclusion of mediation. Such request shall be filed in writing with the deciding body or individual and the chair or the senior member of the Standing Committee on Faculty Rights. The request for review may be based on allegations that the institution failed to comply with applicable policies or gave the decision inadequate consideration, or that the nonrenewal decision violated (a) academic freedom, (b) rights guaranteed by the United States Constitution, or (c) terms of the employment contract or other written agreement. The allegation must be supported by a specification of the reasons why the decision violated these rights and a summary of the evidence supporting the allegation(s). The institution shall, within twenty calendar days of receipt of the written notice and specifications, provide a written response to the faculty member and the chair of the Standing Committee on Faculty Rights.

5. A faculty member may terminate an appointment by giving notice in writing. Faculty are encouraged to give notice well in advance of the date of termination of employment at the end of a contract term. For the purpose of determining eligibility for participation in the state uniform group insurance program during summer months only, the effective date of termination of a faculty member with a nine- or ten-month contract covering the regular academic year (generally, August to May) who gives notice of resignation prior to the end of the contract term but completes the contract term, or who completes the contract term and then gives notice of resignation before the beginning of the next regular contract term or does not return to work for the next regular term, is July 2. This provision does not apply if a faculty member's spouse is employed by the state and eligible for participation in the state uniform group insurance program during the summer months. Also, this provision does not apply if employment is terminated and a faculty member does not complete the contract term or if a faculty member provides notice of other health plan coverage during the summer months. If a faculty member with a nine- or ten-month contract also has a contract for the summer term and resigns but completes the term, the effective date of termination is July 2 or the ending date of the summer term contract, whichever is later.
6. A tenured faculty member terminated pursuant to Board declared financial exigency shall be given written notice of termination at least 90 days prior to the date of termination. A tenured faculty member terminated pursuant to loss of legislative appropriations shall be given written notice of termination at least 12 months prior to the date of termination. A tenured faculty member terminated pursuant to loss of institutional or program enrollment, consolidation of academic units or program areas, or elimination of courses shall be given written notice of termination at least 12 months prior to the date of termination. In such cases as described in this subsection, significant consideration shall be given to length of service and tenure status in the retention of faculty members within the affected academic unit or program area, curriculum requirements, professional achievements, breadth of competence, and equal employment opportunity. Each institution shall establish procedures for implementing this policy.

- a. A tenured faculty member given notice of termination under this section may request that the institution circulate his or her vita to other academic units or program areas within the institutions of the NDUS system. In addition, the institutions shall ensure that fair consideration is given to the faculty member, during the period of the terminal appointment, for vacant academic positions in the employing institutions for which the faculty member is qualified. The faculty within any academic unit or program area shall have the major responsibility in determining qualifications for appointment therein. If a tenured faculty member accepts an appointment in a different academic unit or program area, the faculty member shall retain his or her tenure status, subject to approval of the Board.
 - b. A position terminated under this section shall not be filled by a replacement within two years, unless the released faculty member has been offered appointment with tenure and a reasonable time within which to accept or decline it.
 - c. The provisions of section 605.4 do not apply when a tenured faculty member is terminated under this subsection. The faculty member may, however, within twenty calendar days of receipt of notice of termination, file a request for review under processes established at the institution for that purpose.
7. In accordance with principles of shared governance, the faculty governance structure at each institution shall adopt procedures by which faculty participation is solicited before notice of termination is given any tenured faculty member pursuant to section 6. Faculty participation shall be solicited concerning:
 - a. The extent to which there are grounds for termination of tenured appointments;
 - b. Judgments determining where within the overall academic program termination of appointments may occur; and
 - c. The procedure and criteria for identifying the individuals whose appointments are to be terminated.
8. A faculty member may be dismissed at any time for adequate cause. Adequate cause means: (a) demonstrated incompetence or dishonesty in teaching, research, or other professional activity related to institutional responsibilities, (b) continued or repeated unsatisfactory performance evaluations and failure to respond in a satisfactory manner to a recommended plan for improvement; (c) substantial and manifest neglect of duty, (d) conduct which substantially impairs the individual's fulfillment of his or her institutional responsibilities or the institutional responsibilities of others, (e) a physical or mental inability to perform assigned duties, provided that such action is consistent with laws prohibiting discrimination based upon disability, or (f) significant or continued violations of Board policy or institutional policy, provided that for violations of institutional policy the institution must notify the faculty member in advance in writing that violation would constitute grounds for dismissal, or the institutional policy must provide specifically for dismissal as a sanction.

- a. An authorized institution officer shall give written notice of intent to dismiss and specify the reasons for the action. The officer may, in the officer's discretion, also schedule a meeting with the faculty member to discuss the action. The notice shall state that the officer will forward to the institution president a recommendation to dismiss unless the faculty member, within twenty calendar days of receipt of the notice, requests a hearing before the Standing Committee on Faculty Rights. If the faculty member does not make a timely request for a hearing, the president, upon receipt of a recommendation to dismiss, shall make a decision and provide written notice and reasons for the action to the faculty member within ten business days of receipt of the recommendation.
 - b. A faculty member may, within twenty calendar days of receipt of notice of intent to forward to the institution president a recommendation to dismiss, request a formal hearing before the Standing Committee on Faculty Rights, pursuant to section 605.4.
 - c. Pending a final decision on dismissal for adequate cause, the faculty member may be suspended by the institution's president or assigned to other duties in lieu of suspension, if it is reasonably determined that it is in the best interests of the faculty member or the institution to do so. The decision to suspend a faculty member or to assign a faculty member to other duties under this paragraph shall not be subject to grievance under Policy 612, except to the extent that the assigned duties are not within the scope of a faculty position. The faculty member's salary and fringe benefits shall continue during a period of suspension. Salary and benefits shall be terminated upon a final decision by the institution president to dismiss the faculty member following conclusion of proceedings at the institution.
 - d. This section shall not apply to conduct by a faculty member which is alleged to constitute sexual harassment under Title IX of the Education Amendments of 1972, which is governed by Policy 520.
9. If the administration determines that the conduct of a faculty member, although not constituting ground for termination or dismissal, provides reasonable cause for imposition of a sanction, the administration shall inform the faculty member in writing of the sanction and the reasons for the sanction. A sanction means demotion, suspension (but not including suspension pending a dismissal or termination decision), salary reduction or loss of salary, or restriction or loss of privileges imposed as a formal disciplinary measure. A sanction does not include implementation of an improvement plan or performance action plan or negative comments in a performance review, letter of reprimand or other document placed in a personnel file; rights to respond to a performance review or to a letter of reprimand or other document placed in a personnel file are set forth in N.D.C.C. § 54-06-21 and institution grievance procedures adopted under SBHE Policy 612. If the sanction is imposed following a hearing by the Standing Committee on Faculty Rights and based on the hearing record, there is no further review. If the sanction is imposed without a hearing, the faculty member may request review upon filing with the institution's president and chair or senior member of the Standing Committee on Faculty Rights a request for review and specifications of reasons

within twenty calendar days of receipt of notice of imposition of a sanction. The institution shall have twenty calendar days following receipt of the request for review to file a response. The Standing Committee on Faculty Rights shall review the matter according to procedures established at the institution for that purpose and issue a written report within twenty calendar days of receipt of the institution's response and may make a recommendation to resolve the dispute, stating its reasons. The institution shall make its final decision upon reconsideration and provide written notice of that decision to the faculty member within ten days of receipt of the report and recommendation of the Standing Committee on Faculty Rights. Upon filing of a request for review pursuant to this subsection, imposition of the sanction shall be suspended pending a final decision of the institution's president following conclusion of those proceedings.

References: N.D.C.C. § 54-06-21, SBHE Policies 520, 605.4, 612

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Policy: 605.4 Hearings and Appeals

Effective: April 29, 2021

1. A faculty member may request a hearing with the standing committee on faculty in accordance with SBHE Policy 605.3. The written notice shall include the specific reasons or grounds upon which the request for a hearing is based. The institution shall have ten business days from receipt by its president of the notice and specifications to file a response with the committee chair or senior member of the committee and the faculty member.
2. The committee shall appoint, at the expense of the institution according to institution procedures, a hearing officer with authority to conduct pre-hearing meetings, supervise exchange or collection of information, advise the committee, or preside over the hearing. The faculty member, the institution and their representatives shall comply with all reasonable directives and requests of the hearing officer appointed by the committee. The institution shall provide necessary clerical support for the committee and, upon request, for the hearing officer.
3. The committee or the hearing officer shall hold a pre-hearing meeting or meetings to simplify the issues, effect stipulations of facts, provide for or assist with the exchange of documentary or other information, or achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious. The faculty member, the institution and their representatives shall participate in pre-hearing meetings upon request and comply with the directives of the committee or the hearing officer. Discovery shall be informal and formal depositions or interrogatories for the purposes of discovery are not permitted, except by agreement of the parties. Failure to participate in discovery or at the pre-hearing conference, or to comply with the directives of the committee by either the faculty member or the institution may be considered by the committee when it issues its recommendation.
4. The committee or the hearing officer shall serve written notice of hearing on the faculty member and the president or their representatives not less than twenty calendar days before the hearing.
5. The faculty member and the institution may stipulate to a resolution based on the written statements; in which case the committee shall make its recommendation on that basis.
6. During the proceedings, the institution and the faculty member are entitled to have an administrative or academic advisor and counsel of their choice and at their own expense. The committee may request that it be provided with counsel that does not represent the institution or employee to advise it throughout the process; such counsel may include counsel who advise other institutions or the NDUS office. Proceedings shall be closed to the public unless the faculty member requests that the proceedings be open. N.D.C.C. ch. 44-04's open

meetings requirements do not apply to the committee's proceedings.

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

12. The decision of the president is final.

13. This Policy shall not apply to appeals from a determination of responsibility regarding a formal complaint of sexual harassment under Title IX of the Education Amendments of 1972, which is governed by Policy 520.

References: N.D.C.C. ch. 44-04, SBHE Policies 520, 605.3

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Policy: 605.5 Mediation

Effective: April 29, 2021

1. For purposes of this subsection:
 - a. “Mediation” means a process in which a mediator facilitates communication between parties to assist the parties in reaching voluntary decisions related to their dispute.
 - b. “Administration” means any person who has acted on behalf of the institution under SBHE Policy 605.3.
2. This policy applies to faculty members as defined in SBHE Policy 605.1. It does not apply to employees governed by the NDUS HR Policy Manual or to administrators, coaches, or faculty members acting in their administrative or coaching capacity. Mediation is available upon agreement of the parties under SBHE Policy 605.3, excluding subsection 8. Mediation is not available in proceedings initiated under SBHE Policy 605.3(8). For other proceedings governed by SBHE Policy 605.3, a faculty member or the administration may request mediation and mediation shall proceed upon agreement of the parties. For grievances governed under SBHE Policy 612, participation in mediation by all parties is mandatory, which means that parties shall participate in at least one mediation session.
3. The following mediation procedures and time periods apply to SBHE Policy 605.3:
 - a. A faculty member or the administration may request mediation in accordance with institutional policy.
 - b. Within fifteen calendar days of receipt of the written request, the mediator shall meet with the parties to explain the mediation process.
 - c. If the parties agree to mediate, the mediator shall schedule a first mediation session within ten calendar days of reaching an agreement to mediate. Upon agreement to mediate, other internal proceedings and the time periods provided for those other proceedings shall be stayed pending conclusion of mediation.
 - d. The first mediation session begins a twenty calendar-day period or a mutually agreed upon mediation period during which participants attempt to resolve the dispute. At the conclusion of the mediation period, the mediator shall notify the appropriate institutional representatives in accordance with institutional policy whether or not the issues have been resolved.
4. The following mediation procedures and time periods apply to SBHE Policy 612:

- a. Participation in mediation is mandatory in connection with grievances under SBHE Policy 612. Other internal proceedings and the time periods provided for other proceedings shall be stayed pending conclusion of mediation.
 - b. Within fifteen calendar days of receipt of the written grievance the mediator shall meet with the parties to explain the mediation process.
 - c. The mediator shall schedule a first mediation session within ten calendar days of the meeting under SBHE Policy 605.5(4)(b).
 - d. The first mediation session begins a twenty calendar-day period or a mutually agreed upon mediation period during which participants attempt to resolve the dispute. At the conclusion of the mediation period, the mediator shall notify the appropriate institutional representatives in accordance with institutional policy whether or not the issues have been resolved.
5. Mediators may be selected by agreement of the parties. The CCF may offer its advice and recommendations concerning selection of the mediation pool.
6. Mediators shall facilitate and coordinate the process. Mediators may not issue orders, find fault, impose solutions, or make decisions for the mediation participants.
7. For proceedings in which the parties have agreed to mediate, either party may withdraw from mediation at any time, and for those proceedings in which mediation is mandatory, either party may withdraw from mediation at any time after the first mediation session.
8. All time periods in this section are suspended between May sixteenth and August fifteenth as to all nine-month faculty unless all parties expressly waive the suspension.

References: SBHE Policies 605.1, 605.3, 612

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Policy: 606.1 Classification - Higher Education Employees

Effective: October 31, 2019

1. All employees within the NDUS, except those excluded by SBHE Policy 606.1(2), are subject to the broadbanding system as described within the NDUS HR Policy Manual.
2. Those excluded from the broadbanding system are: faculty; coaches; the Chancellor, vice chancellors and NDUS office professional staff; presidents, provosts, vice presidents, and other employees of the institutions holding positions the institution president has excluded from the broadbanding system by designation.

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Policy: 607.0 Application of Human Resource Policy Manual; Compensation and Benefits
Effective: October 31, 2019

1. Policies in the NDUS Human Resource Policy Manual (HR Policy Manual) generally apply to broadbanded employees.
2. The following policies apply also to other employees, including faculty and those excluded from the broad banding system, subject to the exclusions in SBHE 607.0 (3):
 - a. HR Policy Manual 5.2 – governing pay days and direct deposit;
 - b. HR Policy Manual 6 – relating to annual leave;
 - c. HR Policy Manual 7 – relating to sick leave;
 - d. HR Policy Manual 8 – relating to worker’s compensation;
 - e. HR Policy Manual 9 – relating to insurance;
 - f. HR Policy Manual 11 – relating to work week;
 - g. HR Policy Manual 12 – relating to overtime;
 - h. HR Policy Manual 13 – relating to employment of relatives;
 - i. HR Policy Manual 19 – relating to holidays;
 - j. HR Policy Manual 20 – relating to leave;
 - k. HR Policy Manual 22 – relating to family leave;
 - l. HR Policy Manual 30 – relating to garnishments;
 - m. HR Policy Manual 31 – relating to travel expense; and
 - n. HR Policy Manual 33 – relating to continuing education for employees.
3. The following policies do not apply to faculty:
 - a. HR Policy Manual 6 – relating to annual leave;
 - b. HR Policy Manual 7 – relating to sick leave;
 - c. HR Policy Manual 8.6 – relating to return to work or termination;
 - d. HR Policy Manual 20.5 – relating to conferences or convention leave; and
 - e. HR Policy Manual 20.6 – relating to leave sharing program.

Reference: NDUS Human Resource Policy Manual

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Policy: 607.4 Sick and Dependent Leave; Family Leave

Effective: June 17, 2004

1. Employees excluded from the broadbanding system, other than faculty and members of the academic staff, are entitled to sick or dependent leave and family leave under the same terms and conditions governing sick or dependent leave and family leave for employees subject to the broadbanding system according to the NDUS Human Resource Policy Manual.
2. Each institution shall adopt policies governing paid sick or dependent leave for faculty and members of the academic staff.

Family leave

- a. Family leave is an unpaid leave of absence available to eligible employees for the birth, adoption, or foster placement of a child; or for the serious health condition of the employee, the employee's parent, child, or spouse.
- b. Eligible employees are those employees, including faculty and other members of the academic staff, whose employment is not limited in duration, who are employed for an average of at least twenty hours per week, and who have been employed by the institution for at least one year, or, for faculty and other members of the academic staff employed on nine or ten month contracts, for at least one contract term or academic year.
- c. Family leave used for the birth, adoption, or foster care placement of a child must begin within twelve months of the event.
- d. The institution may require medical documentation to verify the existence of a serious health condition including date of commencement and probable duration of illness.
- e. The maximum length of available leave for eligible full time employees is twelve weeks in a twelve-month period, beginning on the first day of leave. Leave for birth or adoption of a child may be taken intermittently if approved by the employing entity; leave because of the serious health condition of the employee, a parent, child or spouse may be taken intermittently if medically necessary. A married couple is not limited to a total of twelve weeks if both are employed by the state; each is entitled to twelve weeks. Reasonable and practical notice must be provided to the agency.
- f. When leave is completed, the employee must be returned to the same position, or a position with equivalent compensation and benefits. If a reduction in force would have caused the position to be eliminated, this reinstatement does not apply.

- g. Employees utilizing family leave will be provided health benefits at the same level and coverage as if the employee had not taken leave.
- 3. Institutions shall in all cases comply with the Americans With Disabilities Act and Rehabilitation Act of 1973. Institution officials shall investigate and respond appropriately to requests for accommodations to enable employees to perform essential job functions.

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Policy: 608.2 NDUS Employees – Non-renewal and Dismissals

Effective: July 23, 2020

1. This policy applies to all employees excluded from the broadbanding system who are not members of the academic staff, and, with respect to their positions as administrators or other non-academic positions, to employees with appointments to the academic staff. This policy does not apply to:
 - a. Chancellor and institution presidents;
 - b. Coaches;
 - c. Faculty – Employees with academic appointments are governed by SBHE Policy 605.1, 605.2, 605.3 and 605.4; or
 - d. Student residence hall assistants, work-study students and other students employed on a part-time basis for a limited term. The terms and conditions of employment for student resident hall assistants shall be stated in a written contract.
2. An employee may be dismissed, without cause, pursuant to written notice of termination in accordance with the following schedule:
 - a. At least three months, if written notice is given during the first year of service;
 - b. At least six months, if written notice is given during the second year of service or thereafter;
3. For the purposes of SBHE Policy 608.2(2), “service” means employment at the same institution or agency.
4. An employee may be dismissed based upon financial exigency as determined by the SBHE, loss of appropriations, loss of institutional or program enrollment, consolidation of organizational units or program areas or elimination of courses, in which cases the notice requirements of the preceding section shall not apply. If a dismissal is implemented pursuant to this paragraph, the employee shall be given no less than ninety days’ notice.
5. An employee may be dismissed for just cause as defined in the NDUS HR Policy Manual. Notice of intent to dismiss for cause, stating the reasons for the proposed action, shall be given by a department head or other designated official unless the employee is an institution officer who reports directly to the institution's chief executive, in which case the chief executive shall give notice, or a NDUS employee

who reports to the Chancellor, in which case the Chancellor shall give notice. The notice shall be given not less than five calendar days before the date of dismissal and the employee has the right, within that time, to respond in writing and request a pre-termination review. Following notice of intent to dismiss and any employee requested pre-termination review, the department head or other designated individual, if the notice of intent to dismiss was not given by the chief executive or Chancellor, shall forward a recommendation to the institution's chief executive or Chancellor. The chief executive or Chancellor shall make a final decision and give written notice of that decision.

6. An employee who is dismissed for just cause pursuant to this policy may, within twenty days of dismissal, appeal the decision by filing a notice of appeal, accompanied by a specification of the reasons or grounds upon which the appeal is based, with the institution's chief executive or the Chancellor. The chief executive or Chancellor shall appoint a hearing officer to conduct an evidentiary hearing and submit recommended findings, conclusions and a recommended decision. The hearing officer shall conduct the hearing according to appeal procedures governing hearings conducted by a staff personnel board that are set forth in section 27 of the NDUS HR Policy Manual. The chief executive or Chancellor shall make a final decision and provide written notice of that decision to the hearing officer and the employee within twenty calendar days of receiving the hearing officer's recommendation.
7. This Policy shall not apply to conduct by an NDUS employee which is alleged to constitute sexual harassment under Title IX of the Education Amendments of 1972, which is governed by Policy 520.
8. An employee who voluntarily or involuntarily leaves a non-academic position under this policy but holds a tenured faculty appointment may return to that appointment with all the rights and responsibilities of tenured faculty in the home department, unless a proceeding results in the discharge or demotion of the employee from the faculty position. Should the employee decide to return to the faculty appointment, salary amounts will be adjusted from a twelve-month salary for the non-academic duties to a nine-month to twelve-month faculty salary that is commensurate with the salaries of comparable tenured faculty members, unless a faculty salary was previously set in the contract when the faculty member assumed the non-academic position. Setting the return-to-faculty salary when an individual with a tenured faculty appointment assumes a non-academic position is the preferred option.

References: SBHE Policies 605.1, 605.2, 605.3, and 605.4

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Policy: 608.3 Professional Staff Compensation

Effective: February 26, 2020

Unless otherwise expressly provided by policy, the same policies governing vacation, sick leave, and other fringe benefits of institution administrators apply to professional staff.

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Policy: 609 Communications Proficiency

Effective: June 16, 2005

1. Each institution shall establish a process for verifying communication skills, including written English language proficiency and ability to speak English clearly and with good pronunciation, of all personnel whose appointments include classroom instruction. The process must include procedures ensuring compliance with section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act and prohibit discrimination against a qualified individual with disabilities. The process must also guarantee protection against discrimination in violation of other rights protected under the United States and North Dakota Constitutions or laws and SBHE policies. Each institution shall:
 - a. Develop the process and standards for validating and assessing proficiency through an inclusive process which recognizes the needs of departments, programs, students, and faculty;
 - b. Determine proficiency prior to employment;
 - c. Provide a means of continuously improving communication proficiency of all instructors to meet or exceed defined standards;
 - d. Establish a process for students and personnel affected by this policy to register concerns or file complaints and a process for notifying students of the policy and complaint process;
 - e. Periodically review the effectiveness of the policy and provide reports to the SBHE upon request; and
 - f. Establish procedures to ensure compliance with section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as well as the United States and North Dakota Constitutions and laws. The procedures shall include a mechanism to identify otherwise qualified personnel who may be unable to demonstrate requisite proficiency due to a disability or because of race, religion or another protected characteristic.

References: U.S. Const.; N.D. Const.; N.D.C.C. § 15-10-13.1

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Policy: 610 Oath for Teachers

Effective: April 18, 2002

Every member of the academic staff at university system institutions, before entering upon the discharge of their duties, shall execute the oath or affirmation required by N.D.C.C. §15-10-13.2. The oath shall be executed in duplicate and one copy shall be filed at the institution and one copy given to the academic staff member.

Reference: N.D.C.C. §15-10-13.2

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Policy: 611.1 Employee Responsibility and Activities: Medical Service Plan-UND
School of Medicine and Health Sciences

Effective: October 29, 2020

1. The UND SMHS shall establish and maintain a medical service plan governing distribution of revenues generated by UND SMHS faculty physicians. UND SMHS officials shall establish a mechanism for input by faculty physicians in development and administration of the plan. The plan shall:
 - a. Aid the UND SMHS financially with income generated by faculty physicians;
 - b. Promote the growth of each department by income generated by faculty physicians within that department;
 - c. Assure adequate allotment of time for academic pursuits by decreasing the incentive to earn excessive amounts of practice income at the expense of academic time; and
 - d. Provide participating physicians with financial rewards proportional and appropriate to their clinical endeavors.

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Policy: 611.2 Employee Responsibility and Activities: Intellectual Property

Effective: November 30, 2017

1. The SBHE encourages and promotes research and scholarship based upon the traditional principles of the academic profession. Some creative endeavors, discoveries, advancements, and innovative approaches have the potential to be used outside of the NDUS. Through this intellectual property policy, the SBHE seeks to execute a synergistic model of education, research, outreach, service, and economic development to accomplish a greater good.
 - a. This policy establishes guidelines to support faculty, staff, and students in identifying, protecting, and administering intellectual property (IP), and defines the rights and responsibilities of all involved. Each institution shall adopt procedures implementing this policy, a process for resolving disputes, and a process for informing faculty, staff, and students of their respective rights and responsibilities related to IP. Each institution may adopt a separate statement of IP policies, however such statement may not conflict with this policy.
 - b. The primary purposes of this policy are to:
 - i. Provide clear guidance for all involved in the creation, development, management, protection, and dissemination of discoveries and IP within the NDUS and its institutions.
 - ii. Provide for an effective and efficient process to achieve positive outcomes for creators, the NDUS and its institutions.
 - iii. Effectively manage all interests that may emerge in relation to discoveries that have commercial value or other desirable outcomes and provide guidance as to which of these interests or outcomes has priority.
 - iv. Place creative output into practical use for public benefit as quickly and as effectively as possible, and in a manner consistent with applicable laws and public policy.
 - v. Facilitate the creation of appropriate public-private partnerships to support economic development.
 - vi. Encourage a broad array of mutually beneficial relationships with organizations outside of the NDUS and its institutions to enhance creative output, including collaborative research, licensing of IP, and the formation of companies specifically for the purpose of commercializing newly

created IP.

- c. It is the expectation of the SBHE that all persons involved in the creation, development, management, protection, and dissemination of IP shall conduct themselves in accordance with the core values espoused in SBHE Policy 100.5.

2. For the purposes of this section:

- a. "Creator" means a person who contributes in a significant manner to the development of IP on behalf of the NDUS or one of its institutions.
- b. "Institution" means one of the individual colleges or universities of the NDUS.
- c. "Intellectual Property" or "IP" means any form of property created by the mind including inventions, trade secrets, copyrights, trademarks, mask works, and any other tangible research result such as biological materials, engineering drawings, integrated circuit chips, computer databases, prototype devices, circuit diagrams, and equipment.
- d. "Invention" means a process, method, discovery, device, plant, composition of matter, know-how, or other discovery that reasonably appears to qualify for protection under United States patent law, whether or not actually patentable. This includes possible protection under utility patents, plant patents, design patents, or certificates of plant variety protection. This includes patent-eligible software that may also be copyrightable.
- e. "Net Royalties" means gross revenues, including all royalties, licensing, and other fees generated as a direct result of IP, less the actual, out-of-pocket expenses incurred in procuring and maintaining protection, marketing, licensing, and enforcing rights in such IP. Marketing services allowed only at the discretion of the NDUS or one of its institutions.
- f. "Significant Use of Resources" means a creator's use of NDUS or institutional facilities, equipment, or employees' time that appreciably increases the costs of the NDUS or institution beyond those normally incurred. Significant Use does not include the creator's own time or developmental leave or the normal use of facilities or equipment commonly available to faculty, staff, or the public, such as libraries, internet access, office space, office equipment, computers, or office supplies.

3. The SBHE strongly encourages the pursuit of formal protection and efforts to commercialize all IP as a method of bringing recognition and remuneration to creators, the NDUS, and institutions.

- a. Except as otherwise provided herein, and subject to restrictions arising from overriding obligations or institutional policies, institutions shall have and hold title to all IP that is the result of any work, research, or investigation conducted by

institutional employees in the course and scope of their employment. Upon employment and as otherwise necessary, all employees of an institution shall execute an appropriate written assignment of IP to the institution. For purposes of this subsection, creators employed by the NDUS shall be deemed employees of:

- i. The institution most closely connected to the development of specific IP in terms of facilities or resources used or, if none;
 - ii. The institution to which the specific IP is first disclosed by at least one creator or, if none;
 - iii. The institution selected by the Chancellor or designee upon disclosure of specific IP to the NDUS
- b. Each institution's procedures shall act as a guide for determining, clarifying, and preserving ownership of IP, shall provide for the disclosure, review, and evaluation of IP, and shall at a minimum require:
 - i. The creator's timely, written disclosure of IP.
 - ii. The creator's provision of all necessary declarations, assignments, or other documents as may be necessary.
 - iii. The institution's review of the technical and commercial viability and, in the case of inventions, patentability, of IP within a reasonable period.
- c. If at any time an institution decides not to pursue, or otherwise to discontinue its protection and commercialization of any IP, the institution shall notify the creator. In the absence of overriding obligations the institution shall upon request of at least one creator release its rights in such IP to the original assignor, subject to an obligation to reimburse the institution for its actual out of pocket costs in the event of a commercial windfall. However, under no circumstance may the creator to whom rights are released use the name of the NDUS or an institution in connection with subsequent development, use, or marketing of the IP. Creators may request that IP rights be released, even in the absence of a prior decision by the institution to discontinue protection. Institutions shall have the discretion to grant such a request, provided that the institution may require, as a condition of the release of IP rights, that the creator reimburse the institution for its actual, out-of-pocket costs incurred in pursuing formal protection of the IP.
- d. Subject to any overriding obligations, a creator, or the creator's heirs, successors, or assigns, shall be entitled to a minimum of forty percent of the net royalties received by the institution in connection with the creator's IP. Institution procedures should allocate remaining net royalties to be used principally in support of research. In addition, each institution shall maintain the right to implement a sliding scale [reducing percentage] for net royalties once a specified revenue trigger is reached,

with a minimum entitlement of thirty percent. The specifics of the sliding scale and trigger revenue shall be at the discretion of each institution.

- e. When there are two or more creators, each creator shall share equally in the creator's share of net royalties unless all have agreed in writing to a different distribution of such share. The institution will honor any agreement purporting to share rights or royalties between participating parties to the fullest extent permitted under applicable law. In cases of joint development where creators are employed at two or more institutions, the institutions shall enter into an inter-institutional agreement.

4. The following provisions apply to general copyrighting of IP at the institution.

- a. Each institution's IP procedures shall provide for the disclosure, review, and evaluation of original works of authorship, and for the protection and commercialization of works in which copyright is owned by the institution under this policy. Copyrightable works that are also patent-eligible inventions, such as software, shall be governed by the general IP policy set forth in SBHE Policy 611.2(3).
- b. An institution shall own copyright in works prepared by its employees at the specific direction of the institution.
 - i. An employee shall report such work in accordance with the general IP policy set forth in SBHE Policy 611.2(3).
 - ii. Net royalties received by an institution as a result of copyright ownership will be disbursed in accordance with the general IP policy set forth in SBHE Policy 611.2(3).
- c. Institution employees shall be entitled to own copyright in works that are prepared within the scope of employment but not at the specific direction of the institution.
 - i. An institution shall relinquish copyright ownership in any work that arises by operation of law and, if necessary, shall execute assignments conveying such copyright ownership to employees. As a condition of any such relinquishment or assignment, the institution shall retain a perpetual, non-exclusive, worldwide and royalty-free license to use the work for teaching, educational, archival, and research purposes. SBHE 611.2(4)(c) shall not apply to companion works that enable, or are incidental to or necessary for the practice of, an invention owned by the institution under this policy.
 - ii. If an employee has made a significant use of resources in the creation of a work governed by SBHE Policy 611.2(4)(c), an institution may require the employee to reimburse the institution for the value of such use.

- iii. Institution employees shall not use any work governed by SBHE Policy 611.2(4)(c), including textbooks and other course materials, either printed or electronic, in any manner that competes in a substantial way with the for-credit offerings of the institution employer unless such use has received the approval of the chief academic officer of the institution.
- 5. Each institution's IP procedures shall provide for the identification and protection of the trademarks and service marks of the institution, provided that commercialization and licensing activities may be delegated by contract to one or more third parties.
- 6. Student IP.
 - a. An institution may not require an assignment of IP rights from a student unless at least one of the following applies:
 - i. The student received financial support from the institution, in the form of wages, salary, stipend, or grant funds, for the research or activities that led to the development of the IP.
 - ii. The institution is contractually obligated to require such assignment.
 - iii. The IP was developed with the significant use of resources and the retention of such rights by the student would substantially impair a mission of the institution.
 - iv. The IP was a companion work that enabled, or was incidental to or necessary for the practice of an invention owned by the institution under this policy.
 - v. The student expressly agreed to make such assignment.
 - vi. The IP comprises marks or logos used or intended to be used solely or primarily by the institution in conjunction with the institution's offering of goods or services, including the institution's department of athletics.
 - b. An institution may not require a license in IP from a student unless at least one of the following applies:
 - i. The IP comprises copyright in a thesis or dissertation.
 - ii. The IP arose from a multi-semester classroom project administered by an institution employee, such as a senior design project, and the license is necessary for the institution to continue administering the project.
 - iii. In the absence of such license, a mission of the institution would be substantially impaired.

- iv. The student has expressly agreed to grant such license.
 - c. If an assignment is required, the student making such assignment shall be treated as a creator and shall be entitled to the rights and benefits of a creator under this policy.
 - d. Required licenses shall be non-exclusive, non-commercial, perpetual, and royalty-free, unless otherwise agreed to by the institution so licensed.
 - e. Nothing in this section shall be construed to prevent a student from voluntarily entering into a relationship with an institution concerning IP.
7. An institution may assign or transfer ownership rights in IP to a foundation as defined in SBHE policy. Such assignment or transfer shall be in writing and signed by the president of the institution or a designee. Institutions may require, as a condition of such assignment, periodic reporting relating to the administration, marketing, and commercialization of the assigned IP.
8. It is the responsibility of institution employees to ensure that the terms of their consulting agreements with third-parties or the conditions of developmental leave do not conflict with this or any other SBHE or institutional policy.

Reference: SBHE Policy 100.5

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Policy: 611.5 Employee Responsibility and Activities: Outside Employment or Consulting Practices; Use of Institution Property

Effective: April 29, 2020

1. NDUS employees may be employed or engage in consulting activities or other services outside of their NDUS employment if the consulting activity or service or other outside employment does not interfere with NDUS job duties and does not constitute a conflict of interest.
2. Employees may not use institution or NDUS property, equipment, supplies or staff for remunerated consulting activities or other services for remuneration or for private or personal use, except as authorized under institution or system policies. Use of institution or NDUS property, equipment, supplies or staff for remunerated consulting activities or other services for remuneration outside of NDUS employment is permitted only subject to written authorization and agreement establishing terms for payment or reimbursement to the institution for such use.
3. Each institution shall adopt policies or procedures implementing this policy, including rules governing payment or reimbursement for authorized use of institution or NDUS property, equipment, supplies or staff.

Reference: N.D.C.C. § 39-01-04

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Policy: 611.6 Confidential Proprietary Information

Effective: April 18, 2002

1. Pursuant to N.D.C.C. § 44-04-18.4, trade secret, proprietary, commercial and financial information is confidential and not subject to the state's open records law if it is of a privileged nature and has not been previously publicly disclosed. Institutions shall adopt necessary policies or procedures to protect confidential information, including such information received or generated in connection with grants or contracts. The existence of a confidential grant, contract or proposal and non-confidential grant or contract terms, the name of the funding entity, or the general nature of the research shall not be proprietary or confidential.
2. No policy shall limit or affect the applicability or implementation of any rule or regulation of the state health department.
3. Confidential information shall be identified by the sponsor as such at the time of disclosure to the institution. Such information shall not mean:
 - a. Information already in the public domain at the time of disclosure;
 - b. Information rightfully received by the institution from a third party without obligation of confidence;
 - c. Information publicly disclosed either before or after the institution's receipt of such information by the sponsor or a third party; or
 - d. Information which the institution can demonstrate to have been known prior to receipt from the sponsor.
4. Institution policies shall allow the free dissemination of data from knowledge creation efforts while maintaining confidential information and preserving the intellectual property rights resulting from such programs. The right to publish the results derived from research and development programs shall be vested at all times in the institution, its faculty, staff, or students.

However, the sponsor may request:

- a. A limited period in which the sponsor may examine potential publications to provide advisory comments and to identify its proprietary information; and
- b. A period in which public "enabling" disclosures of research results or discoveries

should be withheld to allow the preservation of intellectual property rights.

Other restrictions may apply within the context of local institutional policy and state law.

Reference: N.D.C.C. § 44-04-18.4

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Policy: 611.8 Employee Responsibility & Activities: Research on Human Subjects

Effective: April 25, 1989

1. The conduct of research involving humans as subjects, including humans as sources of information, raises unique concerns which have motivated the promulgation of specific regulations to safeguard the subjects and their right to maintain their privacy. Institutional policies shall define regulations which include requirements of confidentiality regarding subject identity and informed consent to the release of data or other information produced by the research.
2. Use of human subjects includes not only the manipulation of humans and their behavior under controlled circumstances, but also collection of information from humans by survey or observation. The institutional regulations shall require pre-commencement review by an assigned institutional review board or its representatives. Researchers whose work uses human subjects shall comply with these regulations.
3. Institutional review boards shall establish their own policy for the protection of proprietary and confidential information contained in proposals and protocols submitted to them. Institutional policies shall specifically address situations in which a breach of confidentiality may result in social or economic harm to the subject and in which the publication format of educational and scientific data may lead to identification of a single subject.

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Policy: 611.9 Selection of Textbooks and Other Curricular Materials

Effective: April 15, 2004

The following rules govern selection of textbooks and other curricular materials:

1. An instructor may not receive financial compensation or any other form of remuneration, excluding supporting educational materials for teaching, from a publisher or an agent of the publisher for the purpose of selecting or assigning textbooks or other curricular materials.
2. An instructor or other employee who is paid or receives other remuneration in connection with the sale or assignment of textbooks or other curricular may, as provided under institution procedures implementing this policy:
 - a. Assign all royalty payments or other remuneration resulting from assignment of the materials at the employing institution; or
 - b. Retain royalty payments or other remuneration, in which case the final decision to assign the materials shall be made as provided under each institution's procedures.
3. With the input of faculty, students and administration, each institution shall adopt procedures implementing this policy, including a process for review or appeal.

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Policy: 611.10 Employee Responsibility and Activities: Theft, Fraud, Abuse and Waste
Effective: April 25, 2019

1. Each employee, as a basic condition of employment, assumes responsibility for safeguarding and preserving the assets and resources of the state and NDUS and its institutions, particularly those for which the employee is responsible.
2. Each institution and the NDUS office shall develop and implement controls designed to minimize opportunities for theft, fraud, abuse, waste or unlawful or improper use of public resources, including funds, supplies, data, technology, property or position.
 - a. “Theft” means knowingly taking, exercising unauthorized control over, or making an unauthorized transfer of interest in, or receiving or disposing of property of another, including institution or state property or funds, with the intent to deprive the owner, including embezzlement, obtaining money by false pretenses, fraudulent conversion or misappropriation of public funds or authorizing or receiving compensation for goods not received or services not performed.
 - b. “Fraud” means any intentional act or omission designed to deceive others that results in a loss or other disadvantage to resources or achieving a gain or advantage to which an employee or other person would not normally be entitled, including making false statements or creating or reporting false information.
 - c. “Abuse” means intentional or willful destruction, diversion, manipulation, misapplication or misuse of resources, including destruction, damaging or removal of records or property.
 - d. “Waste” means intentional or willful expenditure, consumption, mismanagement, squandering or use of resources, resulting in unnecessary costs.
3. The controls must include:
 - a. A process for reporting suspected theft, fraud or unlawful or improper use of public resources;
 - b. Designation of an officer with responsibility for receiving and investigating such reports;
 - c. A process for investigation, audit or referral to law enforcement officials if there is reasonable basis to suspect theft, fraud, or unlawful or improper use of public resources; and

- d. A report summarizing findings, disposition and, if appropriate, recommendations for additional controls to prevent recurrence.
- 4. Each institution and the NDUS office must subscribe to a fraud hotline service enabling anonymous reports. All reports regarding institutions must be submitted simultaneously to a designated institution officer and the NDUS compliance officer. An investigation and disposition must include:
 - a. Review and inquiry regarding allegations and documentation of fact-finding steps completed;
 - b. Documentation regarding when the report or complaint was made and when the review or investigation was started and completed;
 - c. Conclusion regarding the results of the review or investigation; and
 - d. Documentation of any internal control or process changes recommended to mitigate concerns.
- 5. Each employee is expected to report suspected theft, fraud or unlawful or improper use of public resources to a supervisor, department head, chief fiscal officer or other institution or NDUS officer designated with responsibility for receiving and investigating such reports pursuant to SBHE Policy 308.2.
- 6. An employee found to have engaged in theft, fraud or unlawful or improper use of public resources, or an employee with knowledge of such acts by another who unreasonably fails to report such information as required by this policy, is subject to discipline, up to and including dismissal.
- 7. Each institution and the NDUS office shall require that each benefited employee annually complete fraud awareness training. The training requirement may be satisfied by classroom instruction, a seminar or online training, provided it is approved by the NDUS compliance officer. The training must include review of this policy and the required code of conduct. Each employee shall agree to comply with the policy and code of conduct and each institution and the NDUS office shall enforce this policy and document annual training.

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Policy: 611.12 Use of State Vehicle

Effective: February 26, 2019

1. No person, officer, or employee of the state or any department, board, bureau, commission, institution, industry, or other agency of the state, shall use or drive any motor vehicle belonging to the state or to any department, board, bureau, commission, institution, industry, or other agency of the state for private use, or while engaged in any political activity.
2. All employees who operate a vehicle while conducting state business must review and sign the [State Fleet Driver Agreement SFN 61420](#) and adhere to all policies outlined in the current Department of Transportation State Fleet Services Policy Manual. This applies to all vehicles including State Fleet, privately owned, leased or rented vehicles.
3. Drivers of State Fleet and other vehicles while conducting state official business may not use cell phones (including hands free) or any other mobile devices while operating the vehicle while in motion or stopped at a stop sign or traffic. This includes, but is not limited to, answering or making phone calls, engaging in phone conversations and reading and responding to emails, instant messages, social media, or text messages. Passengers are exempt from this policy providing the use of the cell phone or mobile device is prudent and not distracting to the driver to the extent possible. Drivers are exempt from this policy when urgent business must be conducted using a hands-free device, in the event that pulling over to the side of the road is impractical or unsafe.

References: N.D.C.C. 39-01-03, 24-02-03.3

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Policy: 612 Faculty Grievances

Effective: April 29, 2021

1. Each institution, in consultation with its faculty governance structure, shall establish policies and procedures to attempt mediation or resolution of faculty grievances and to define the procedures for filing a grievance in accordance with principles of shared governance.
2. "Grievance" means an allegation of a violation of a specific SBHE or institutional policy, procedure or practice pertaining to the employment relationship, including the terms of the grievant's employment contract. Discretionary actions, such as salary adjustments and performance evaluations, may not be grieved, except to determine:
 - a. Whether the discretionary action was made in accordance with relevant SBHE or institutional policies, practices, procedures, or criteria; and
 - b. Whether the action constitutes a clear abuse of discretion.

Complaints involving any matters covered under SBHE Policy 605.3 or 605.4 are not grievances under this policy. Grievances cannot be filed against the text or method of passage of written SBHE policies, or the text of institutional policies, but may pertain to the implementation of those policies.

3. This policy applies only to faculty as defined in SBHE Policy 605.1. It does not apply to classified staff, administrators, or coaches, or to faculty related to actions while the faculty member is acting in their capacity as an administrator or coach.

References: SBHE Policies 605.1, 605.3, 605.4

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Policy: 614 Hazardous Substances Information Program

Effective: February 6, 1987

Institutions and entities under the control of the SBHE having hazardous substances shall implement and employ an information and hazardous waste management program in accordance with federal and state laws and regulations.

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Policy: 615 Drug Free Workplace

Effective: April 18, 2002

All NDUS institutions, officers and employees shall comply with the Drug Free Workplace Act of 1988. The Chancellor and institutions shall adopt and enforce policies and procedures implementing that Act and this policy.

Reference: NDUS Procedure 615

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Policy: 616 Career and Technical Program Instructor Certification Standards

Effective: October 31, 2019

1. NDUS career and technical program instructors shall meet applicable state board for career and technical education postsecondary certification standards.
2. The Chancellor may adopt procedures implementing or providing limited exceptions to this requirement.

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Policy: 701.1 Leave Without Pay

Effective: February 25, 2020

1. Leave without pay may be granted for purposes such as education, research, temporary employment with another university, governmental, or private agency when such employment will contribute to the employee's expertise in a particular field and make the employee more effective upon return to employment, literary pursuits, or any other purpose that will improve the employee professionally and will directly or indirectly benefit the institution or NDUS.
2. Requests for leave without pay for presidents or the Chancellor shall be approved by the SBHE Chair. Requests for leave without pay for institution employees shall be approved by the institution president or designee, and requests for NDUS office staff shall be approved by the Chancellor.
3. An employee who is on an approved leave of absence without pay may continue to be covered by employer health, life, or disability insurance provided: the employee remits the appropriate premium to the applicable business office; such coverage is not inconsistent or contrary of insurance; and such coverage would not be contrary to state law.
4. Institutions shall establish procedures for implementing this policy.

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Policy: 701.2 Developmental Leave

Effective: June 17, 2004

1. Developmental leave for retraining or professional development is permitted for NDUS employees subject to the following:
 - a. Institutional resources are available;
 - b. Workload is absorbed within the existing staff resource allocations.
 - c. An employee must submit a written proposal describing the planned use of the leave and its anticipated benefits to the institution, to the state, and to the employee. The proposal shall include the detail of the source of funds for the total stipend, and is subject to approval pursuant to SBHE Policy 701.2(3);
 - d. Except as provided in SBHE Policy 701.2(1)(e), the employee signs an agreement to return to the NDUS upon completion of the leave for a period of time at least equal to the leave time or refund the stipend payment; and
 - e. To assist in retrenchment efforts, developmental leave may be granted without a signed agreement to return. The employee shall execute a resignation effective at the termination of the developmental leave.

Developmental leave may not exceed twelve months and the base stipend may not exceed the salary scheduled for the leave period.

2. Beginning July 1, 2004, presidents and the Chancellor are entitled to thirty calendar days developmental leave following five years of service as a NDUS president or Chancellor and each five years thereafter. Presidents employed before July 1, 2004, who have not taken developmental leave within the previous five years or have not been granted developmental leave under contracts in effect on that date are entitled to credit for prior service as president, not to exceed five years. Presidents who have taken developmental leave within the previous five years are not entitled to prior service credit. Presidents with a contract in effect on July 1, 2004, providing for developmental leave during the term of the contract are entitled to developmental leave as provided under that contract but are not entitled to prior service credit. Presidents requesting developmental leave shall submit a written proposal to the Chancellor describing the planned use of the leave and anticipated benefits to the institution, the state and the employee, and arrangements made for administration of the institution in the president's absence. Developmental leave for presidents shall be taken at times and under terms the Chancellor approves. The Chancellor shall submit a written proposal to the SBHE

president describing the planned use of the leave and anticipated benefits to the NDUS, and arrangements made for NDUS administration in the Chancellor's absence.

3. Developmental leave for the Chancellor shall be approved by the SBHE; developmental leave for NDUS office staff and presidents shall be approved by the Chancellor; and developmental leave for institution employees shall be approved by the institution president or designee.

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Policy: 702.4 Administration of Salary Increase Funds

Effective: February 25, 2020

1. Each institution and the NDUS office shall have a clear, written statement of its salary administration policy, developed and revised with the participation of those affected by it, and approved by the Chancellor.
2. The policy shall include:
 - a. A statement of the institution's philosophy and objectives for awarding salary increases that complements the institution's mission and purposes;
 - b. Language that addresses:
 - i. Recruitment and retention of qualified employees;
 - ii. Motivating employee performance to achieve institutional goals;
 - iii. Achieving competitive pay levels considering internal equity and institutional resources; and
 - iv. Consistent administration and application of institution pay policies.
 - c. A process for individuals to obtain an impartial review of their salary increase decision.

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Policy: 703.1 Early Retirement

Effective: January 28, 2020

1. Early retirement is available as a cost saving tool and a vehicle for the infusion of new thoughts, ideas, and skills by the opening up of positions. Early retirement is not a device to circumvent due process procedures for dismissals. Early retirement is not an entitlement and may be used only when the institution has documented the benefits resulting from the agreement. This policy applies to tenured faculty; the Chancellor, vice chancellors and other NDUS office professional staff; and presidents, executive deans, vice presidents, provosts, deans and other officers responsible for a major unit of an institution who report directly to a president, vice president, provost, or executive dean.
2. For the purposes of this subsection:
 - a. "Employee" means those individuals employed by an institution or in the NDUS office to which this policy applies pursuant to paragraph two.
 - b. "Retirement Plan" is the formal document describing the retirement agreement between the employee and the institution.
 - c. "Faculty" means instructors, assistant professors, associate professors, and professors with recognized tenure pursuant to SBHE Policy 605.1.
3. Early retirement plans are subject to the following:
 - a. By agreeing to a retirement plan, the employee waives all tenure or other rights to continued employment except as may be provided in the retirement plan.
 - b. The early retirement or buyout lump sum payments shall not include employer contributions to retirement accounts.
 - c. Additional benefits not provided for in these rules will be left to local implementation. However, any item which is regarded as a substantial inducement to early retirement or a condition of early retirement must be recorded in the retirement plan.
 - d. If an individual is dismissed from employment or becomes disabled so as to qualify under an institution's group disability program, the provisions of any early retirement agreement shall be void.
4. The following provisions relate to tenure or contract purchase:

- a. Retirement under an agreement providing for a tenure or contract purchase precludes other regular, full-time employment in the NDUS. Part-time or temporary employment to fill vacancies or in exceptional circumstances is permitted.
- b. The applicable sum for eligibility for this option is the sum of the age of the employee and total years of employment in the NDUS or member institution. An agreement may be negotiated providing for payment of up to one hundred percent of the employee's final year contract salary if the sum of the employee's age and total years of employment equals seventy or greater. Payments will be paid in one lump sum pursuant to the terms of the agreement. Payments will be subject to federal and state tax withholding.

5. Institutions may adopt procedures to implement this section. In addition:

- a. Institutions shall use an approved standard form contract.
- b. The early retirement agreement for tenured faculty and other eligible employees of the institutions shall be approved by the president. Early retirement agreements for NDUS staff shall be approved by the Chancellor. Early retirement agreements for presidents shall be approved by the SBHE upon the Chancellor's recommendation. An early retirement agreement for the Chancellor shall be approved by the SBHE.

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Policy: 703.2 Benefits

Effective: February 25, 2020

1. Permanent employees who are eighteen or more years of age and who work twenty hours or more per week for at least twenty weeks each year shall participate in the public employees retirement plan unless such employees are eligible for and choose to participate in another authorized retirement plan.
2. Faculty, professionals, administrators and other eligible employees as defined by the plan shall participate in the teachers insurance and annuity association/college retirement equities fund (TIAA/CREF) plan the SBHE has adopted unless excepted by law or prior agreement.
3. NDUS employees may participate in any deferred compensation plan approved by the Chancellor.
4. Health insurance for NDUS employees is provided under the state uniform group insurance program governed by N.D.C.C. ch. 54-52.1.
5. NDUS employees are covered by the state employee group life insurance policy.
6. All university system employees shall participate in the social security program as provided by law.
7. A “benefited employee” means an employee, including probationary employees, who works at least twenty hours per week and twenty weeks each year.

References: N.D.C.C. ch. 54-52.1, NDUS HR Policy Manual 10

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Policy: 703.3 Retirement

Effective: June 26, 2014

1. The NDUS retirement plans, 403(b), 457(b) and 401(a), (the plan) are intended to provide eligible employees the opportunity to generate the long-term accumulation of retirement savings through employer and employee contributions to individual participant accounts and the earnings thereon. The plan is an employee benefit plan intended to comply with all applicable federal laws and regulations. The plan's purpose is to provide a vehicle to accumulate and grow assets to fund retirement needs on an individual basis for eligible employees.
2. It is the intent to provide a range of investment options under the plan that will enable participants to invest according to varying risk tolerances, and other financial goals. The investment options offered under the plan shall be administered solely in the interests of the plan participants and their beneficiaries.
3. The SBHE and Chancellor have responsibilities towards the plan as follows:
 - a. The SBHE, as plan sponsor, retains authority and must approve changes to the plan including plan design, contributions, eligibility and investment menu. The SBHE also approves the investment policy statement (IPS) proposed by the retirement plan oversight committee. SBHE members are fiduciaries of the plan. The SBHE may delegate investment fiduciary responsibilities to the Chancellor or the committee for plan performance review, employee education and communication, compliance and other operational activities proposed by the committee.
 - b. The Chancellor, as CEO of the NDUS, is the plan administrator and a fiduciary of the plan. The Chancellor appoints the NDUS retirement plan oversight committee and delegates authority to the committee to monitor the plan and make recommendations to the plan administrator or plan sponsor. The Chancellor may also retain legal and financial advisors or consultants to assist the SBHE, Chancellor, and committee. The Chancellor shall report to the SBHE at the end of each fiscal year concerning the administration of the plans.

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Policy: 705.1 Executive Compensation

Effective: September 26, 2012

1. To attract and retain highly-qualified individuals able to lead the NDUS and its institutions, the SBHE shall, within the limits of available resources and subject to satisfactory performance, compensate its Chancellor, vice chancellors and other NDUS senior officers, and NDUS presidents at levels that are competitive in the market place subject to variances related to differences in institution sizes and missions, internally equitable, and resource limitations.
2. A president may receive a portion of their compensation from affiliated foundation contributions or other sources, subject to the following:
 - a. All contributions made by an affiliated foundation or its officers or directors must be made directly to the employing institution and disclosed in an agreement between the institution and foundation as provided in SBHE Policy 340.2;
 - b. A president's compensation for all services, including compensation from affiliated foundations, must be disclosed in an employment contract approved by the SBHE; and
 - c. The institution shall account for and pay the president's entire compensation, including amounts contributed by a foundation or its officers or directors, as provided in the employment contract.
3. The executive committee shall recommend and the SBHE shall establish compensation plans for the Chancellor, vice-chancellors and other NDUS senior officers, and presidents. Compensation plans must include salary ranges and salary matrices for each position based on relevant market data for equivalent positions and salary increases based on pay for performance as documented through the evaluation process and the approved salary matrices. Ranges for presidents shall be based on salaries only. A president's salary may not exceed the ranges established under this subsection without SBHE approval. Subject to compliance with SBHE Policy 705.1(2), other forms of compensation contributed by foundations may exceed established salary ranges. The SBHE may pay the Chancellor a housing or hosting allowance in consideration of job duties.
4. For the necessity and convenience of the UND, NDSU and DSU, the presidents of those institutions shall be provided an unfurnished residence with a furnished public area, free of rent, with all utilities and maintenance paid by the university. The UND, NDSU and DSU presidents shall reside in the residence and to use the residence for entertainment purposes designed to further the interests of the university. MaSU, MiSU and VCSU presidents are

entitled to a housing allowance in a uniform amount recommended by the Chancellor.

5. In lieu of mileage reimbursement for use of personal vehicles for official business, presidents or Chancellor receiving a vehicle allowance before the effective date of this policy shall continue to receive the vehicle allowance until June 30, 2008, according to terms of their employment contracts. Further, those presidents or Chancellor may elect to continue the vehicle allowance in lieu of mileage reimbursement beyond June 30, 2008, or until retirement, resignation or other termination of their employment, provided the election is made before July 1, 2008. Presidents or Chancellor who do not elect to continue a vehicle allowance and presidents or Chancellor appointed after the effective date of this policy are entitled to mileage reimbursement for use of personal vehicles and not a vehicle allowance.

Reference: SBHE Policy 340.2

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Policy: 706.1 Board Member and Advisor Per Diem Payments

Effective: September 15, 2011

1. SBHE members shall be paid per diem at the rate established by the legislative assembly. The budget and finance committee shall recommend and the SBHE in its annual budget shall establish limits on the total number of days in each year for which a SBHE member may claim per diem, subject to adjustments made by the SBHE.
2. Per diem shall be paid for the following events, within the budget approved by the SBHE and as documented on the required reimbursement form:
 - a. Attendance at regularly scheduled meetings and special meetings, except telephonic conference meetings requiring one hour or less which do not require travel by SBHE members. For telephonic conferences requiring more than one hour but less than four hours, SBHE members are entitled to one-half the per diem for a full day and for telephonic conference meetings requiring four hours or more, SBHE members are entitled to the full per diem.
 - b. As the spokesperson and representative of the SBHE according to Policy 310.1, the SBHE president may claim per diem for dedication ceremonies, informal meetings with the governor or other officials and other groups or other events involving discussion of SBHE business. The SBHE president may request that the vice president or other SBHE member participate in a dedication, meeting or other event in place of or in addition to the president, in which case the vice president or other SBHE member may claim per diem.
 - c. Attendance by a SBHE member in an official capacity as a designated representative of the SBHE at other meetings or functions, including meetings of the medical center advisory council, SBHE subcommittees or task forces, new SBHE member orientation, legislative hearings, commencements and meetings of interstate compacts or other organizations to which the state or SBHE, or SBHE member as an official representative of the SBHE belongs.
 - d. In addition to events attended as an official representative of the SBHE or at the request of the SBHE president, the annual SBHE budget shall include funds for reimbursement, including per diem, for up to five days, including partial days for each SBHE member to attend informal meetings or other events involving SBHE business at the SBHE member's discretion, with the SBHE president's approval. SBHE members shall inform and consult the SBHE president regarding the topic or topics to be discussed in advance unless it is not practical to do so, in which case they shall inform and consult the SBHE president as soon as practical after the event. In

addition, upon request in advance by a SBHE member, the SBHE president may approve reimbursement of per diem in excess of five days for attendance at such events by a member, subject to SBHE approval of allocation of additional funds for such reimbursement. SBHE members are entitled to reimbursement including per diem for such events only as approved by the SBHE president.

3. A SBHE member is not entitled to per diem for attendance at institutional athletic, social or cultural events, or other campus events or meetings with institution officials attended upon invitation of institution officials and not as the official representative of the SBHE.
4. Per diem shall be paid for travel days when travel is necessary on the day before or after a meeting or other function for which per diem is paid. For travel days for which per diem is not otherwise due, SBHE members shall be paid one-half the per diem for a full day for travel less than four hours and the full per diem for travel requiring four or more hours.
5. SBHE members shall be reimbursed for travel expenses from the NDUS office appropriation for attendance at meetings and functions for which per diem is paid. Travel expenses for attendance by SBHE members at other institution functions at the invitation of the institution's chief executive officer shall be reimbursed by the host institution; however, expenses for travel to institutional athletic, cultural or social events not involving SBHE business may not be reimbursed. The faculty and staff advisors shall be reimbursed for travel expenses from the NDUS office appropriation for attendance at SBHE meetings and functions and CCF or staff senate meetings. The faculty and staff advisors shall be reimbursed for mileage only from the NDUS office appropriation for other official meetings or functions requiring travel to or from institutions. Lodging and meals for the faculty and staff advisors for these additional events shall be furnished by the host institution.
6. Per diem and reimbursement for travel to out-of-state meetings or conferences shall be paid only when approved in advance, in writing, by the president of the SBHE.

References: N.D.C.C § 15-10-08, SBHE Policy 310.1

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Policy: 707 Severance Pay

Effective: February 3, 2016

1. Institutions and the NDUS office may provide severance pay to an employee who is released due to a reduction in force, subject to the following:
 - a. The maximum payment is the equivalent of the individual's salary, retirement benefits, and health benefits for two weeks per completed year of service, up to a maximum of one year of salary and benefits.
 - b. The number of employees in the institution or office must be reduced by one for each individual awarded severance pay.
 - c. Employees may not receive severance pay if they are awarded early retirement, developmental leave, or other forms of special compensation at the time of separation.
 - d. Employees receiving severance pay shall release the institution from liability and all employment rights by written agreement.
 - e. The severance pay agreement with an employee must provide that the employee shall reimburse the institution on a pro-rata basis if salary compensation is received from another North Dakota state agency or institution for services rendered during the time for which severance pay was received. The amount to be reimbursed shall be equal to the hourly rate of severance compensation or subsequent state compensation, whichever is less, multiplied by the number of hours of subsequent state employment during the severance pay period.
2. In addition to severance pay and consistent with N.D.C.C. § 54-14-04.3, institutions and the NDUS office may provide financial incentives to encourage an employee to retire or resign if the employee's departure will increase efficiencies or reduce expenses.

Reference: N.D.C.C. § 54-14-04.3

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Policy: 802.6 Budget Management and Control

Effective: February 25, 2021

1. The purpose of this policy is to provide clear and specific responsibility for proper budget management and control among university system institutions, the SBHE and the NDUS office.
2. “Budgeting” means the process whereby the plans of an institution, the SBHE or the NDUS office are translated into an authorized and systematic plan of operation, expressed in dollars, for a given period. “Budget” means the blueprint for the orderly execution of program plans; a budget serves as a control mechanism to match anticipated and actual revenues and expenditures.
3. The SBHE shall:
 - a. Establish all budget requests of the legislative and executive branch;
 - b. Set operating and capital budget guidelines that promote fairness and appropriate investment of state resources throughout the NDUS and encourage accomplishment of institution and systemwide outcomes;
 - c. Establish priorities for facility requests to promote facility funding on the basis of systemwide need;
 - d. Allocate funds directly appropriated to the SBHE or NDUS office on behalf of the institutions and entities;
 - e. Act on all fiscal matters statutorily requiring SBHE approval;
 - f. Establish fiscal accountability measures and reporting format; and
 - g. Approve the SBHE and NDUS office operating budgets.
4. The Chancellor shall:
 - a. Have authority to approve institution operating and capital budgets, subject to compliance with SBHE guidelines;
 - b. Develop recommended operating and capital budget guidelines and deadlines for review by the Budget and Finance Committee and approval by the SBHE;

- c. Consistent with SBHE budget guidelines, develop and review with the Budget and Finance Committee a NDUS office operating budget, including employee compensation issues, to be recommended to the SBHE;
- d. Have authority to approve the format of operating and capital budgets.

5. Institution presidents shall:

- a. Allocate institution resources in a manner consistent with expected SBHE outcomes and pertinent laws, rules, policies and governing accounting policies and procedures, and, within limits established by this policy, reallocate resources within the institution. Budgets are approved at the institutional level, not functional or departmental level. Institutions may make budget revisions if the revisions are adequately documented and the president or other institution officer who is delegated that authority has approved the revisions. Institutions may spend income collected from non-general fund and non-tuition income sources provided the president or other institution officer who is delegated that authority has approved the expenditures;
- b. Ensure that the SBHE's budget guidelines for a given fiscal year or biennium are incorporated into the institution budget and are carried out operationally;
- c. Be accountable for all funds, property, equipment and other facilities assigned or provided to the institution to ensure that all are used consistent with laws, policies or other specific requirements;
- d. Periodically report budget and other fiscal status to the SBHE, consistent with the format and intervals as established by the SBHE, to alert the SBHE to significant budget and fiscal variances;
- e. Adequately plan and make necessary budget or spending adjustments to avoid unusual deficit fund balances at fiscal year-end;
- f. Ensure that monitoring procedures are in place to ensure that the campus operates within the approved budget, except as otherwise permitted by this policy; and
- g. Ensure that all institution officers and employees act in a manner that is consistent with established university system priorities.

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Policy: 802.7 Identity Theft Prevention

Effective: May 30, 2019

1. The Federal Trade Commission has published rules implementing part of the Fair Credit and Accurate Transactions Act of 2003 (FACTA) regarding the duties of creditors, card issuers and users of consumer reports. The rules are set forth at 16 CFR Part 681 and are commonly referred to as “Red Flags Rule” regulations. The regulations require entities with covered accounts, including colleges and universities, to develop and implement a written Identity Theft Program, or “Red Flags” program.
2. Definitions:
 - a. Covered Account – A covered account is a consumer account designed to permit multiple payments or transactions. These are accounts where payments are deferred and made by a borrower periodically over time such as a tuition or fee installment payment plan.
 - b. Creditor – An entity that regularly and in the ordinary course of business advances funds to or on behalf of a person, based on the person's obligation to repay the funds. Examples of activities that indicate an institution is a “creditor” are:
 - Offering payment plans for tuition or fees throughout the semester, rather than requiring full payment at the beginning of the semester;
 - Participation in a federal student loan program;
 - Offering institutional loans to students, faculty or staff.
 - c. Identifying Information – Any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including: name, address, telephone number, social security number, date of birth, government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number, student identification number, computer’s Internet Protocol address, routing code or financial account number such as credit card number, in combination with any required security code, access code, or password that would permit access to an individual’s financial account.
 - d. Identity Theft - A fraud committed or attempted using the identifying information of another person without authority.
 - e. Red flag – A red flag is a pattern, practice or specific activity that could indicate identity theft.

- f. Service provider – A third-person or entity engaged to perform a service or activity in connection with a Covered Account.
- 3. Each NDUS institution shall adopt and implement a written Identify Theft program to ensure compliance with 16 CFR Part 681, to identify risks associated with identity theft and to mitigate the effects of identity theft upon the college or university, its employees, students, patients, constituents and customers. At a minimum, institution Identity Theft programs shall include:
 - a. Processes for identifying red flags for covered accounts that indicate the possible existence of an identity theft;
 - b. Identification of reasonable and appropriate action steps that will be taken when a red flag activity has been detected, including consultation with the NDUS CIO if the pattern, practice or specific activity relates to a university system-supported application;
 - c. Processes for oversight of service providers and requiring that accounts accessed or managed by service providers on behalf of the institution have implemented an appropriate program;
 - d. Annual training to educate employees on the program;
 - e. Periodic review and updates to the program;
 - f. Designation of an institution officer or officers responsible for program administration; and
 - g. An annual report on compliance and effectiveness of the program and recommendations for changes, to be filed with the office or officer designated by the institution president.

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Policy: 803.1 Purchasing

Effective: July 1, 2018

1. Each institution shall develop and implement necessary and appropriate policies and procedures to ensure compliance with laws and SBHE policies governing purchasing. Officers and employees involved in purchasing decisions shall comply with all applicable federal and state laws and regulations relating to conflict of interest and acceptance of gifts and gratuities. Institution purchasing policies and procedures shall conform to SBHE Policy 611.4 relating to conflict of interest, and include procedures for disclosing a conflict of interest. Further, institution purchasing policies and procedures shall address whether vendors' offers of scholarships, endowments and other premiums contained in bids or proposals will be considered and, if so, the criteria for evaluating such offers.
2. Pursuant to N.D.C.C. §15-10-28, institutions may enter into agreements with institutions of higher learning in other states and regional education compacts. Pursuant to N.D.C.C. §54-44.4-13, institutions shall make joint purchase of like commodities or services of high common usage when determined to be in the best interest of the state, and institutions may use cooperative purchasing contracts entered into by the Office of Management and Budget (OMB). Additional bids or proposals shall be solicited from other vendors when required by law or this policy.
3. Preference shall be given to North Dakota bidders when required pursuant to N.D.C.C. §44-08-01.
4. Institutions are encouraged to purchase environmentally preferable products as outlined in N.D.C.C. §54-44.4-07.
5. The purchase of recycled paper products is subject to the requirements in N.D.C.C. §54-44.4-08.
6. Information technology purchases are subject to SBHE Policy 1901.3.
7. Each procurement transaction must be adequately documented for audit and public record purposes. All required procurement documentation must be maintained in accordance with governing records retention requirements per SBHE Policy 1912(7).
8. The policies governing purchasing shall be waived for non-competitive purchases, as outlined in the purchasing procedures, when approved by the purchasing agent or other person delegated that authority.

References: N.D.C.C. §44-08-01, 54-44.4-07, 54-44.4-08; SBHE Policies 611.4, 1901.3, 1912(7); NDUS Procedure 803.1.

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Policy: 803.4 Purchasing Cards

Effective: April 1, 2018

1. NDUS institutions shall participate in the statewide purchasing card (p-card) program administered by the North Dakota office of management and budget.
2. Institutions will comply with the following for all p-card activities:
 - a. North Dakota Century Code,
 - b. SBHE policies,
 - c. NDUS Procedure 803.4, and
 - d. Institution policies.
3. Cardholders must be a NDUS employee. Students, including graduate students and student organizations, are not allowed to obtain a p-card. If an employee is also a student, the issuance of the p-card must be based on their status as an employee, and all transactions must be related to their employment.
4. Cardholders will complete training authorized by the NDUS office prior to issuance of a p-card for new cardholders and annually thereafter.

Reference: NDUS Procedure 803.4

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Policy: 804 Equipment and Other Leases

Effective: January 28, 2020

1. This policy governs equipment and other non-real property leases where the NDUS institutions or entities are the lessee and leases for real property where NDUS institutions or entities are the lessor. Real property leases (land and buildings) are governed by SBHE Policy 909.
2. Leased assets must be classified as either capital or operating leases, in accordance with the Government Accounting Standards Board (GASB) standards.
3. All lease agreements governed by this policy must be approved and executed by an officer delegated that authority by SBHE or institution policy. Additionally, Chancellor approval is required for all leases, lease renewals and master lease transactions that meet the following thresholds:
 - a. A lease entered into by NDSU or UND provides for total payments by the institution, including lease or rental, interest and all other payments over the lease term, of seven hundred and fifty thousand dollars or more; or
 - b. A lease entered into by the NDUS office or NDUS institution other than NDSU or UND provides for total payments by the NDUS or institution, including lease or rental, interest and all other payments over the lease term, of five hundred thousand dollars or more.
 - c. Leases required Chancellor approval under (3)(a)-(b) of this policy shall be submitted in a format determined by the Chancellor.

The Chancellor may, in the Chancellor's discretion, submit a lease to the SBHE for SBHE consideration and approval in lieu of Chancellor approval.

4. All lease agreements, including master leases, governed by this policy must be reviewed by legal counsel for the institution or office receiving the leased property. Master leases must be reviewed by the SBHE legal counsel. Leases made without the required approval are not binding on the institution, NDUS, or SBHE.
5. Master leases should be used when economically prudent and must be approved by the SBHE. If a master lease requires the SBHE's legal counsel to issue a legal opinion letter for transactions under the master lease, that opinion letter may be issued by an institution's legal counsel so long as notice of the transaction is provided to the SBHE's legal counsel at least

five days prior to execution.

6. Master leases and tax-exempt financing agreements are governed by SBHE Policy 804.1 and must be approved by the SBHE pursuant to that policy.
7. The Chancellor shall adopt procedures defining required or recommended terms for lease agreements and defining the content and format for leases requiring Chancellor approval.
8. As part of the mid-year budget status report to the SBHE's budget and finance committee, institutions shall disclose new equipment and personal property lease agreements. At year end, institutions shall disclose all equipment and personal property lease agreements to the NDUS office in a format determined by the Chancellor.
9. Computer cloud hosting arrangements that meet the following criteria are accounted for as service contracts and are exempt from this policy:
 - a. The NDUS office or NDUS institution does not have the contractual right to take possession of the software at any time during the hosting period without incurring significant costs or a significant reduction in utility or value; and
 - b. It is not feasible to run the software on the NDUS office or NDUS institution's hardware or contract with another party unrelated to the vendor to host the software.

References: N.D.C.C. § 54-44.1-06; SBHE Policies 803.1, 804.1, 840, 908, 909; NDUS Procedures 803.1, 804.

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Policy: 804.1 Tax Exempt Bond Issues and Lease Purchase Financing

Effective: January 28, 2020

1. The SBHE must approve issuance of bonds pursuant to N.D.C.C. ch. 15-55 or acquisition of real or personal property by any institution for which the SBHE is responsible pursuant to any form of installment purchase (such as a Lease Purchase Agreement) wherein the interest component of the periodic payments is intended to be exempt from state and federal income tax.
2. In order to take advantage of the lowest interest rates for tax exempt borrowings authorized by the Internal Revenue Code of 1986 (I.R.C), as amended, the SBHE shall designate borrowings as "Qualified Tax-Exempt Obligations" under Section 265 of the I.R.C. This designation applies if the SBHE intends to issue a principal obligation amount of less than ten million dollars in the calendar year if principal obligation amounts are incurred under tax exempt installment purchase transactions.
3. The issuance of tax-exempt obligations by the SBHE shall be coordinated by the institutions with the NDUS Office, in the manner determined by the Chancellor.
4. The Chancellor shall adopt procedures to coordinate institution requests for tax exempt financing.
5. Institutions shall cooperatively utilize master lease agreements and other cooperative efforts to minimize costs.
6. Institutions must submit copies of all bond rating reviews and updates to the NDUS office as they are issued and received by the institutions.

References: N.D.C.C ch. 15-55; United States Internal Revenue Code of 1986; SBHE Policies 804, 908; NDUS Procedure 908.1

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Policy: 805.1 Tuition

Effective: June 29, 2021

1. The SBHE shall annually approve tuition rates. For purposes of this section, “Tuition” means the basic charge assessed enrolled students, on a per-credit hour basis or at a flat rate assessed at either 12 or 13 semester hours, for classes or programs for which students earn academic credit that may be applied toward a degree. Tuition may be assessed in differential tuition tiers, rates that differ by academic program or course subject, based on programmatic needs. A differential tuition may be set at a dollar amount or as a percentage of base tuition. Tuition may also be charged at a subscription rate for part-time, non-degree students, as approved by the SBHE. Tuition does not include fees or other charges assessed students for specific or supplemental services including, student activity, distance learning access, program, or technology fees.
2. All tuition revenues and expenditures of those revenues generated from degree credit, including audited courses, regardless of delivery methodology, must be accounted for and budgeted as institutional collections in general ledger appropriated funds.
3. Tuition rates shall include rates for residents and nonresidents, as those terms are defined by law, and, except as otherwise approved by the SBHE, the following rates for these special categories:
 - a. For Minnesota residents, a tuition rate established per Minnesota Reciprocity Agreement;
 - b. For other out-of-state U.S. residents and residents of the Canadian provinces of Saskatchewan and Manitoba, a tuition rate no lower than 120 percent of the resident tuition rate;
 - c. For undergraduate students who do not otherwise qualify for a lesser tuition rate, and who are children or spouses of graduates of NDUS institutions, a tuition rate equal to 150 percent of the resident rate, regardless of residency; and
 - d. For international students, except those from the Canadian provinces of Saskatchewan and Manitoba, a tuition rate no lower than 175 percent of the resident tuition rate.
4. An audit tuition rate shall be charged for courses taken for audit at not less than one half of the per credit hour differential tuition tier rate by academic program or course subject based on student residency.

5. As the SBHE defines a high school student enrolled in college courses high school student tuition rates shall be determined by NDUS for all high school students enrolled in college or university coursework. A high school unsubsidized rate will be charged for each credit hour taught by a qualified instructor who is paid by the institution. A High School Subsidized Rate will be charged for each credit hour taught by a qualified instructor paid by the high school.
6. Negotiated Tuition Rates: The SBHE recognizes postsecondary institutions require the flexibility to price courses or programs offered directly to business and industry and other non-traditional customers based on market demand to deliver the training contemplated by N.D.C.C. ch. 52-08 and respond to the need for other programs in non-traditional markets. NDUS institutions may negotiate a flat rate charge, not less than the resident tuition rate, to be paid in full or in part by a third party for the delivery of courses or programs to a defined group of students. Paid by a third party means payment is made from an external source, including an employer, business, or industry, or grant or contract funds. The Chancellor may, upon application of an institution and documentation of special circumstances, approve a charge less than the resident tuition rate.
7. Institutions may charge for earned credit as follows:
 - a. Course Challenge: A charge to students who elect to earn credit for a course through testing rather than regular enrollment, not to exceed fifty percent of the regular resident or nonresident per credit hour tuition charge for the course. This fee does not apply to students who earn credit by taking a standardized test for credit or advanced placement.
 - b. Articulation: A charge approved by the Chancellor, on a per credit hour basis, to students seeking postsecondary credit pursuant to articulation agreements with secondary schools.
 - c. Attached Credit: A charge, not to exceed fifty percent of the regular resident or nonresident per credit hour tuition charge, for attached credit.
 - d. Prior Learning Credit: A charge approved by the Chancellor, not to exceed fifty percent of the regular resident or nonresident per credit hour tuition charge, for prior learning credit.
8. Institutions may assess a charge for non-degree credit and non-credit classes for which students do not earn academic credit that may be applied to a degree, including attached credit courses and institutionally-sponsored professional development activities.
9. For purposes of this section:
 - a. "Attached credit" means credit for instruction sponsored or approved by an institution taught by an instructor not employed or paid by the institution.

- b. Degree credit, non-degree credit, developmental coursework and non-credit institutional activity are defined in NDUS Procedure 441.

References: N.D.C.C. ch. 52-08; NDUS Procedures 441, 805.1

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Policy: 805.3 Fees

Effective: February 25, 2020

1. Mandatory Fees:

- a. Student Fee - These are intended to support activities for the benefit or enrichment of students or recognized groups of students. Institutions may collect student activity fees subject to the following conditions and procedures:
 - i. Institutions may collect from each student a student government activity fee to support student government and other student activities, including, but not limited to, student organizations and clubs, lyceums, drama, music, field trips and student publications. The amount of the fee shall be established by a vote of either the student body or its elected representative body as determined by institution policies and approved by the institution president. Funds raised by the fee shall be administered by the institution student government and shall be allocated as part of an annual budget adopted by the student government pursuant to that organization's procedures and approved by the institution president. Institution and student government policies shall include a process for organizations to request review of funding allocations.
 - ii. Institutions may collect from each student a university or college fee to support activities for the benefit of the student body, including, but not limited to, debt retirement, student union operations, athletics and placement services. The amount of the fee shall be established by the institution president; provided, however, that prior to instituting a fee, changing the fee or reallocating fee revenues, the president shall notify the institution student government body and provide students an opportunity for input on the proposed action according to procedures adopted by the institution for that purpose.
- b. Technology Fee – Institutions shall collect a fee to be used for networking or technology purposes. Fee revenue sufficient to retire bonds used for campus networking issued pursuant to N.D.C.C. ch. 15-55 shall be dedicated for that purpose pursuant to applicable law. Additional fee revenue shall be used for technology purposes, including acquisition of technology and software, infrastructure, technology support staff, training and related expenses. Institutions shall establish procedures providing for student input concerning the amount of the fee and use of fee revenue.
- c. NDSA Fee - Institutions shall collect from each student a fee as approved by the SBHE, to support the North Dakota Student Association, Funds raised by the fee shall be dedicated to the support of the NDSA and its activities.

- d. ConnectND Fee – Institutions shall collect from each student a fee, as approved by the SBHE, for administrative, financial and student information systems support.
2. Other Fees:
- a. Application Fee - Institutions may charge an application fee of up to thirty-five dollars to all students applying to an institution at either the undergraduate or graduate level to be used for processing applications and other institutional costs. Institutions may establish separate or additional application fees for professional programs. The fee shall not be assessed when a student admitted and enrolled at one NDUS institution is enrolled as a collaborative student in a class or classes offered by another NDUS institution.
 - b. Distance Learning Access Fees – Institutions may charge a distance learning access fee to students taking distance learning courses, as defined by Policy 404.1. The fee may not exceed the resident per credit tuition charge for the course, except with approval of the Chancellor.
 - c. Course Fees – Institutions may charge special course fees to benefit all students in a class to cover costs such as transportation and admission on field trips, field experience or study abroad trips, insurance and testing required for specific classes, and individual sessions provided to students such as flight training and music lessons. New course fees established after tuition model implementation, which do not meet the above criteria, require SBHE approval. Tuition model implementation dates will vary by campus.
 - d. Program Fees – Institutions may charge special program fees to benefit students in particular programs that have exceptional and critical needs that are not adequately funded through differential tuition or other sources. New program fees established after tuition model implementation require SBHE approval. Tuition model implementation dates will vary by campus.
 - e. Capacity Enrollment Fee – The institution president may approve a capacity enrollment fee to students applying to programs for which enrollment is limited.
 - f. Other Incidental Fees – The institution president may approve additional incidental fees as may be necessary to facilitate the operation of the institution, (e.g. parking fees, user fees).
3. Institutions shall not charge the mandatory student fee or technology fee to those students taking college credit courses identified as High School-Subsidized and High School-Unsubsidized where the course is taught at a location/instruction mode outside of where other college students are taught.
4. Institutions shall not charge the mandatory fees for students who audit courses.

5. Institution presidents (or designee) shall approve the student, technology, application, distance learning access, course, program, capacity enrollment and other incidental fee amounts.
6. The Chancellor (or designee) shall approve the NDSA and Connect ND fee amounts.
7. All application, course and program fees shall be reported to the SBHE annually at the same time tuition rates are submitted for approval.

References: NDUS Procedures 805.3, 805.3.1

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Policy: 805.6 Room and Board Charges

Effective: February 25, 2021

1. The institutions are authorized to assess and collect charges for the rental of housing accommodations under the control of the institution.
2. The institutions are authorized to assess and collect charges for the provision of meals through cafeterias, snack bars, and vending machines. Such authority extends to food services operated by the institution, and to contractual agreements with catering services.
3. Charges assessed in accordance with this policy must be consistent with room and board rate guidelines approved by the SBHE.

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Policy: 806.1 Payment or Reimbursement of Meals and other Travel or Institutional Expenses
Effective: February 25, 2021

1. Payment or reimbursement of employee travel expenses is governed by N.D.C.C. §§ 44-08-04 (lodging and per diem), 44-04-04.1 (per diem for long-term travel), 44-08-04.2 (travel advances), 54-06-09 (mileage). In addition to expenses for travel out of town, employees are also entitled to reimbursement for meals attended in the city where they normally work if such attendance is required or requested in connection with their duties.
2. NDUS entities may develop more restrictive provisions based on budget, prior patterns of behavior, or other risk factors but will not restrict or limit expenditures that are for a legitimate business purpose and are allowable under SBHE policies and North Dakota Century Code.
3. NDUS entities shall develop and implement policies and procedures to ensure compliance with laws and SBHE policies and procedures governing payment or reimbursement of meals and other travel or institutional expenses.
4. Payment or reimbursement of expense that personally benefits an employee (except to pay or reimburse the reasonable cost of a meal or other business-related expense) is prohibited.

References: N.D.C.C. §44-08-04, §44-08-04.1, §44-08-04.2, §54-06-09; SBHE Policy 918; NDUS Procedure 806.1.

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Policy: 806.2 Staff and Faculty Recruitment Expenses

Effective: February 25, 2021

NDUS entities shall adopt policies governing payment or reimbursement of expenses of candidates for faculty or staff positions and payment of stipends or fees to candidates and others who are invited to present or participate in lectures, colloquies, demonstrations or formal consultations in connection with recruitment or other functions.

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Policy: 806.3 Moving Expenses

Effective: June 28, 2018

1. Upon approval of the president or designee, an institution may pay the moving expenses of a benefited employee hired from outside the institution, subject to definitions in SBHE Policy 703.2, by using the following:
 - a. Paying a lump-sum payment to the employee through payroll based on the amount stated in the signed agreement. Applicable income taxes will be withheld at the time of payment;
 - b. Compensating the employee for moving expenses through accounts payable. A signed agreement, invoices or receipts must be provided before payment is made; or
 - c. Paying a vendor directly through accounts payable for moving expenses as previously authorized in the signed agreement.

A signed written agreement between the institution and the employee should specify the method or methods to be used and amounts to be paid. All three methods are taxable income to the employee and will be included on the employee's W-2 form.

2. Relocation expenses paid or compensated should not exceed one month's salary or an amount approved by the president or designee. The amount should be documented in the signed agreement and reimbursement should not exceed that amount.
3. The moving expenses of employees transferring to a new work location within the same institution shall be governed by N.D.C.C. § 44-08-04.3.

References: N.D.C.C. § 44-08-04.3; SBHE Policy 703.2

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Policy: 807.1 Mobile Phones and Other Mobile Computing Devices; Restrictions on Use of State Phones

Effective: April 12, 2012

1. Each NDUS institution and the system office shall adopt a policy or procedure governing employee use of mobile phones and mobile computing devices that is consistent with this policy and applicable statutes. Institution and system office policies or procedures must include a process for identifying employees who are required to have available a mobile phone or mobile computing device, guidelines and minimum requirements for employee-owned devices and service plans for which an employee receives an allowance or reimbursement, a schedule or schedules to determine the amount of such allowance or reimbursement, and delegation of authority to determine which employees require use of such devices and authority to approve devices, plans and allowances or reimbursements.
2. Definitions.
 - a. **Mobile Phone.** A portable device capable of voice communications or text, messaging, and internet browsing. A mobile phone requires a wireless communication service or plan, or incurs a connecting charge for use.
 - b. **Mobile Computing Device.** A portable computing or communication devices that can execute programs. This definition includes, but is not limited to, notebooks, tablets, smartphones, and personal digital assistants. Use of a mobile computing device may or may not require a wireless communication service or plan or incur connection charges.
 - c. **Mobile Device.** A mobile phone or mobile computing device.
 - d. **Wireless Communication Service or Plan.** A service or plan that allows activation and use of a mobile device for calls, text, or data access.
3. Institutions and the system office may provide or pay for use of mobile devices by officers or employees that have been determined to require use of such devices to enable or facilitate job duties or responsibilities under either of the following options:
 - a. An officer or employee may purchase or lease a mobile device and pay for a service plan or other costs of the device, based on business requirements as determined by a department head or other officer or employee delegated authority to make such determinations; or
 - b. An employing unit may pay an allowance or reimburse an officer or employee for the reasonable costs of an employee's personal device, including purchase or lease cost, service plan costs and other necessary and reasonable costs. The allowance or reimbursement amount shall be determined according to a schedule or schedules under which the allowance or reimbursement for each officer or employee is based on: 1) the extent to which the officer or employee is expected to be available for business by voice, text, messaging or data access; and 2) estimated usage of the device.

4. Employee use of a state-owned or leased telephone or mobile device is subject to applicable state law restrictions, including prohibition on use for political purposes as stated in NDCC section 16.1-10-02. Use of a state or institution telephone or mobile device generally must be limited to business use, subject to limited use for essential personal purposes as permitted by NDCC section 54-06-26. Reasonable and appropriate personal use of a state telephone or mobile device must be limited in time and scope, not interfere with NDUS operations, and not interfere with an employee's job duties and responsibilities. In addition to one personal long distance toll phone call each day authorized by section 54-06-26 when an employee is traveling away from the employee's residence for official business, reasonable and appropriate personal use of a state telephone or mobile device authorized under section 54-06-26 includes use at any time in connection with an emergency requiring immediate communication, incidental or unsolicited communication, and occasional communication with family members or others when use of a personal telephone or other personal device is impractical.

References: N.D.C.C. §16.1-10-02, 54-06-26

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Policy: 810 Deposit of Funds; Investments; Endowment and Gift Funds

Effective: September 26, 2019

1. All funds received by institutions shall be deposited with the Bank of North Dakota, except for:
 - a. Funds required by law to be deposited elsewhere,
 - b. Donations, gifts, grants, or endowment income that are restricted by terms of the governing documents.
 - c. Donations, gifts, grants, endowment income, or other funds that belong to the Board and are not appropriated by the legislature or restricted, may be invested and expended according to this policy or as otherwise directed by the Board.
2. Proceeds of bond issues are governed by N.D.C.C. § 15-55 and may be invested in accordance with N.D.C.C. § 15-55-05. Income and revenue derived from operation of buildings or improvements financed by any such bonds shall be deposited or remitted, and may be invested.
3. Clearing accounts may, with approval of the state auditor and state treasurer, be maintained by institutions located outside of Bismarck at state or federally chartered financial institutions other than the Bank of North Dakota pursuant to N.D.C.C. § 54-06-08.1. Public funds may be deposited in such accounts and the accounts may be used to transfer those funds to the Bank of North Dakota.
4. Institutions are authorized to accept and expend donations or gifts and endowments. Institutions must abide by donor's designation or intended purpose for the use of the funds, unless for an unlawful purpose.
5. Donations or gift funds and endowment funds shall be invested according to the intent of the donor, if such intent is expressed in a gift instrument and provided such intent is consistent with applicable laws. When terms expressing donor investment intent are absent in a gift instrument, NDUS institution officers shall initially deposit the funds in institution accounts at the Bank of North Dakota. Thereafter, the funds shall be invested according to the Uniform Prudent Management of Institutional Funds Act (UPMIFA). NDUS institution officers are delegated authority to manage and invest these institutional funds as provided by UPMIFA.

References: N.D. Const. art. VIII, Section 6; N.D.C.C. § 6-09-07, § 15-10-12, § 15-55, § 21-04, § 54-06-08.1

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Policy: 810.1 Appropriated Funds Reserve

Effective: March 27, 2014

1. **Purpose.** Reserve funds are needed: 1) to protect against sudden shortfalls in revenue (e.g., unforeseen enrollment decline or reduction in state appropriation); 2) to cover unanticipated significant expenses (e.g., one-time legal fees, major disasters, increases in utility costs); 3) ability to plan for one-time initiatives; and 4) to obtain strong accreditation scores and bond ratings.
2. **Amount.**
 - a. **Undesignated Reserve:** By June 30, 2014, colleges and universities shall target establishing and thereafter maintain an undesignated appropriated funds (i.e. general fund and tuition) reserve of between 5-7% of the previous fiscal years' actual general fund and net tuition revenue.
 - b. **Designated Reserve:** Colleges and universities may maintain appropriated reserves in excess of seven percent. They shall be classified into one of the following "designated" categories, as determined by the college or university, and reported to the Vice Chancellor of Administrative Affairs by the end of the quarter following the close of the fiscal year:
 - Instructional and academic support
 - Recruitment and retention
 - Strategic planning initiatives
 - Safety/security
 - Accreditation
 - Student services and marketing
 - Technology
 - Equipment
 - Capital projects, including deferred maintenance
 - Debt service
 - Sustainability
3. **Reporting.**
 - a. The institutional chief financial officer shall report a reserve below five percent at fiscal year-end to the Vice Chancellor for Administrative Affairs no later than the end of the first quarter following the close of the fiscal year. The report shall include a plan for achieving and maintaining at least a 5% reserve.
 - b. A college or university planning to reduce its reserve below three percent must first notify the Vice Chancellor for Administrative Affairs in writing. Designated reserves will not be included when calculating the 5-7% undesignated reserve.

- c. Information on reserve fund balances will be included in the annual financial review report provided to the State Board of Higher Education by each institution.
- 4. **Use.** Reserve funds may be utilized at the discretion of the president. Reserves shall be properly accounted for in the accounting system and use of reserve funds documented.
- 5. **Definitions:** An “undesignated reserve” is that part of an institution’s year-end appropriated fund balance, which has not yet been identified for a specific purpose. A “designated reserve” is that part of an institution’s year-end appropriated fund balance, which is identified as a reserve and is designated for use in particular areas over time and is not part of the undesignated reserve requirement. Both restricted and unrestricted reserves for funds other than the appropriated funds sources are to follow guidelines established for those funds.

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Policy: 812 Legal Representation

Effective: January 28, 2020

The Chancellor shall approve all agreements or contracts to retain outside, or nonemployee legal counsel. The SBHE's legal counsel shall coordinate with the attorney general's office for the appropriate special assistant attorney general's appointment.

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Policy: 820 Waivers and Tuition Assistance

Effective: August 1, 2021

1. In addition to waivers provided under SBHE Policy 820(2), institutions may provide for additional waiver of tuition and fees. Institutions are encouraged to use this authority to promote enrollment of a culturally diverse student body, including members of Indian tribes and economically disadvantaged students, for the benefit of all students and the academic community, to promote enrollment of graduate students and research, and for other purposes consistent with an institution's mission. Institutions may grant partial waivers or waive non-resident or resident tuition. Institutions may also waive tuition and fees as part of a program guarantee under which the institution guarantees that graduates or program completers are minimally qualified for at least entry-level positions in an occupation or job classification.

North Dakota student association (NDSA) and connect North Dakota (CND) fees shall not be waived except when:

- a. Fees are required to be waived per paragraph two of this policy;
- b. Institutions may waive these fees for students attending an institution through an exchange relationship where other tuition and fees are also waived;
- c. Institutions may waive these fees for students where other tuition and institution-specific fees are also waived because of an appeal or determination by the institution granted for extenuating circumstances; or
- d. Approved by the Chancellor.

Institutions must adopt procedures for all waivers offered. At a minimum, institutional procedures must address eligibility, application process, selection criteria, awarding process and monitoring.

2. Institutions shall waive tuition or fees as follows:
 - a. Tuition and fees of the student member of the SBHE;
 - b. Pursuant to N.D.C.C. §§ 15-10-18.2 and 15-10-18.3, tuition and fees shall be waived for dependents of resident veterans who were killed in action, died of service-related causes, have a one hundred percent service-connected disability, were prisoners of war or declared missing in action, subject to the limitations stated in those statutes;

- c. Pursuant to N.D.C.C. §§ 15-10-18.4 and 15-10-18.5, tuition and fees shall be waived for survivors of firefighters, emergency medical services personnel or peace officers who died as a direct result of injuries received in the performance of official duties, subject to the limitations stated in those statutes;
 - d. Pursuant to N.D.C.C. § 54-12-35, twenty-five percent of resident tuition and fees shall be waived for licensed, full-time law enforcement officers, subject to limitations stated in that section and rules promulgated by the attorney general; and
 - e. Pursuant to N.D.C.C. ch. 37-07.1, thirty-five percent of tuition shall be waived for qualified members of the national guard, subject to the limitations stated in that chapter and national guard rules.
3. Employee tuition or fee waivers are subject to the following:
- a. The following definitions apply to this section:
 - i. “Benefited employee” means an employee, including probationary employees, who works at least twenty hours per week and twenty weeks each year.
 - ii. “Employee tuition waiver” means the waiver of tuition for an employee.
 - iii. “Employer paid tuition assistance” means the payment, from one institution to another, of tuition charged for a course taken by an employee.
 - iv. “Campus of employment” means the institution of employment, which includes affiliated entities approved by the president or campus dean.
 - v. “For-credit courses” means the instructional activities which result in the award of degree credit, which can be applied toward a college degree; and non-degree credit, which cannot be applied toward a college degree. This definition excludes a non-credit course, which does not result in the award of college credit.
 - vi. “Dependent” means eligible dependents defined as the spouse of the employee or, a child who is related to the employee as a natural child, a child placed for adoption, a legally adopted child, a child for whom the employee has legal guardianship, a stepchild, or a foster child, under the age of twenty-six. This definition does not include the spouse of an adult dependent child.
 - b. For courses taken at the request of the employee, institutions shall waive or provide tuition assistance for benefited employees, limited to three approved for-credit undergraduate or graduate courses during each calendar year, in any combination of:
 - i. Courses taken at the campus of employment regardless of delivery type: One

hundred percent tuition and fee waiver is provided, with the exception of the CND, NDSA, program and course fees which shall be paid by the employee.

- ii. Courses taken at another NDUS institution, other than the campus of employment, regardless of delivery type: a system-wide fixed fifty percent employer paid tuition assistance, with the employee paying the remaining fifty percent of tuition and one hundred percent of all fees.
- iii. For NDUS office and core technology services (CTS) staff who do not have a campus of employment, the following applies:
 - 1. A one-hundred percent tuition and fee waiver shall be provided for a traditional course, taken at any NDUS institution, with the exception that the employee shall pay the CND, NDSA, program and course fees. Traditional course is a face-to-face course offering on a campus, where the employee and instructor are in person, including IVN courses where employee and instructor are physical face-to-face; and
 - 2. Employer shall provide a system-wide fixed fifty percent tuition assistance payment with the employee paying the remaining fifty percent of tuition and one hundred percent of all fees, for all other courses.
- c. For approved courses taken from non-NDUS institutions, the assistance shall be determined by the employer, and is not subject to provisions of SBHE Policy 820(3)(b).
- d. For courses taken at the request of the employer, from either a NDUS or non-NDUS institution, the waiver or assistance provided shall be determined by the employer, and is not subject to the provisions of SBHE Policy 820(3)(b) above.
- e. Employees may be released from work for one face-to-face class each academic term with approval of the employee's supervisor or department head, if it does not interfere with completion of essential job duties and essential work of the institution.
- f. Institutions have limited discretionary authority to grant tuition waivers or scholarships to benefited employee spouse and dependents, adhering to the below requirements:
 - i. Institutions will grant a minimum fifty percent tuition waiver for approved for-credit undergraduate or graduate courses, regardless of delivery method, to a qualifying spouse or dependent, as defined above.
 - ii. The benefit is available to the spouse or dependent at the employee's campus of employment only. NDUS office and CTS employees are entitled to the

same spouse and dependent tuition waiver benefits granted at any NDUS institution.

- iii. The institution will verify the spouse or dependent relationship utilizing third party documentation requested from the employee. Acceptable documentation includes: a financial aid report, health insurance documentation or a tax transcript from the IRS. Verification documentation must be maintained according to records retention policies.
 - iv. There is no limit on the number of qualifying dependents utilizing the benefit at any time.
 - v. If the spouse or dependent who qualifies for this benefit is also an employee of the same institution, the employee tuition waiver policy applies.
 - vi. In instances where married spouses work for the same institution, only one benefit is available to the dependent. As an example, if married spouses work for an institution that grants a fifty percent benefit to dependents, the benefit cannot be doubled for a one hundred percent benefit.
 - vii. Funding source for the employee spouse or dependent waiver is at the discretion of the institution.
 - g. Assistant Attorneys General assigned to represent the North Dakota University System or an institution shall be considered benefited employees of the institution from which a waiver is sought for the purpose of this paragraph.
 - h. The Chancellor may adopt implementing procedures within the limits of this policy.
 - i. A report of waivers and payments shall be prepared and presented to the SBHE annually.
4. Institutions shall waive the audit tuition rate for on-campus courses for individuals sixty-five years of age or older and may adopt policies providing for waiver of the audit tuition under other circumstances defined by those policies.

References: N.D.C.C. §§ 15-10-18.2, 15-10-18.3; 15-10-18.4, 15-10-18.5, 54-12-35, ch. 37-07.1; NDUS Procedures 820, 820.1

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Policy: 830.1 Student Payment

Effective: October 28, 2021

1. All tuition and fees payable by a student are due by the payment date designated by the institution.
 - a. Except as otherwise provided by this subsection, the designated payment date must be within the first 12 scheduled class days of the term for the regular fall or spring semester. An equivalent deadline for a summer term, no later than the last day to add for the latest summer session, should be established.
 - b. Class days are to include partial instruction days and exclude holidays.
 - c. Institutions may establish a different payment date or grant extensions permitting later payment of tuition and fees as follows:
 - i. For classes scheduled outside of the traditional academic calendar or classes that do not begin at the beginning of a traditional academic term, provided a separate payment deadline is established within 12 scheduled class days of the beginning of the class or classes;
 - ii. For payment of tuition and fees by an employer or other third party under a contract or plan approved by the institution;
 - iii. For high school students enrolled in dual credit classes;
 - iv. Under a deferred payment plan option, according to which a student may elect to pay tuition and fees and other institutional charges in installments with the following terms:
 - 1) The institution may collect a deferred payment plan enrollment fee, not to exceed a maximum amount established by the Chancellor;
 - 2) The institution may, but is not required to collect an initial down payment;
 - 3) No more than twelve installment payments, not to exceed one year, may be made under a deferred payment plan, and installment plans may not be consolidated;
 - 4) The installment payment schedule must provide for payment in full before the start of the subsequent term; and

- 5) Subject to restrictions imposed by state law and this policy, the institution shall assess late fees on any payment past due more than 30 days;
 - v. For students expected by the institution to receive financial aid at a later date;
 - vi. For students that register or add a class or classes after the first scheduled class day; or
 - vii. For any other student based on financial hardship or other good cause as determined and approved by an authorized institution official.
2. Financial aid disbursements may be applied directly to student charges for tuition, fees, room, board, and other expenses. Such crediting for financial aid disbursements and appropriate distribution or collection of any resulting balances shall be in accordance with federal regulations and the institution's payment schedules.
3. Tuition, fees, room, board and other charges may be billed to a third-party payor, including a governmental agency or private organization that has provided an approved written billing authorization.
 - a. Payment for such bill shall be due prior to the end of the enrollment period for which billed.
 - b. Registration and future transcripts may be held at the discretion of the institution for lack of payment by the third-party payor.
4. Other charges posted to student accounts may include, but are not limited to, room and board, parking fees, flight costs, and student health charges.
 - a. Room and board charges or rent shall be due according to the room and board or housing contract.
 - b. Other charges shall be due when posted to a student account or by the term due date established in subsection 1, whichever is later.
5. Institutions may assess a late fee not to exceed 1.75% per month for all unpaid student charges after the charges are past due for thirty days, in accordance with N.D.C.C. § 13-01-14.
6. Institutions may also impose additional sanctions according to the room and board or housing contract for past due housing charges.
7. Institutions may remove late fees based on financial hardship or other good cause, as determined and approved by an authorized institution official.
8. Institutions shall place holds on transcripts and on future enrollment of students who have past due student charges or who have not complied with this policy. Institutions may remove holds based on adequate resolution of past due student charges or noncompliance with this

policy, as determined and approved by an authorized institution official.

References: N.D.C.C. § 13-01-14; NDUS Procedure 830.1

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Policy: 830.2 Institutional Refunds

Effective: October 28, 2021

1. This policy applies to refunds of institutional charges to students who withdraw, drop out, are expelled from the institution or otherwise fail to complete a program on or after the first day of class of the period of enrollment for which they are charged.
2. Each institution shall adopt a written procedure to comply with requirements of federal law and implementing regulations, and this policy concerning refunds to students and the Return of Title IV Funds.
 - a. The written procedures shall include the allocation of refunds and unearned aid in the order specified by law.
 - b. The information must be made available to current students and to prospective students (individuals who contact the institution to request information concerning admission) prior to the earlier of a student's enrollment or the execution of the student's enrollment agreement.
 - c. The information shall include the procedures a student needs to follow to withdraw from the institution and the policy with which the institution is required to comply for the return of unearned institutional charges paid to the institution and a summary of the requirements for the return of Title IV grant or loan assistance.
 - d. Institutional charges include tuition, fees, room, board and other education-related charges assessed the student by the institution.
3. Institutional charges shall be refunded according to a schedule approved by the Chancellor that provides for a percentage refund which approximates the amount the institution must return to the Title IV financial aid programs.
 - a. If the amount of a student's institutional refund is less than the total amount the institution is responsible for returning to the Title IV financial aid programs, or if the student does not have any title IV aid to be returned, the student is responsible for the difference.
 - b. No administrative fee shall be charged.
 - c. Students who withdraw from all classes before nine percent of a term is completed shall receive a one hundred percent refund of tuition and fees.
 - d. Students with a room contract who withdraw shall receive a refund prorated up to the

sixty percent point of the enrollment term according to a schedule approved by the Chancellor.

- e. Students with a board contract who withdraw shall receive a refund of the board contract amount according to a schedule approved by the Chancellor.
- 4. Allocation of unearned aid shall be consistent with federal law. Any balance after allocation to sources of aid and payment of the student's accounts shall be returned to the student.
- 5. Any student who drops a course(s) or withdraws during the term may request waiver of the tuition and fee refund schedule. The institution's chief financial officer or designee is authorized to determine, consistent with applicable federal law, the amount of the refund in such cases.
- 6. This refund policy shall not apply to deposits which may be subject to forfeiture under housing contracts or program admission policies.
- 7. Any student who drops a class before nine percent of the period of enrollment for the class is completed shall receive a one hundred percent refund of tuition and fees for the credit hours attributable to the class or classes dropped. Institution refund procedures shall include provisions governing allocation or repayment of refunds for dropped classes.
- 8. Subject to compliance with applicable federal law, institutions are authorized to adopt a separate refund schedule and drop dates for open enrollment classes, in which case the institution procedure and not schedules or deadlines set out in this policy or approved by the chancellor applies. An "open enrollment" class is one for which there is not an established beginning and ending date. An example of an open enrollment class is a correspondence class for which a student may enroll at any time and complete on a schedule established by the instructor or on the student's own schedule.
- 9. In the instance of intersession, if a student completes an intersession course(s) and then subsequently drops from the regular term enrollment to which the intersession is associated, the transaction will be treated as a withdrawal, not a drop. The institutional charge refund percentage will be applied based on the date of the withdrawal.

References: 34 CFR Part 668; NDUS Procedure 830.2

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Policy: 840 Contract Review

Effective: April 29, 2020

1. Each institution and the university system office, which includes the system information technology division (Core Technology Services, “CTS”) shall adopt procedures establishing contract approval and signing authority and ensuring that contracts and contract amendments are reviewed and approved prior to execution by institution or university system officials. Except as otherwise stated by law or SBHE policy, presidents shall have general approval and signing authority for their institutions and may delegate such authority under institution procedures; and the chancellor shall have general approval and signing authority for the university system, including CTS, and may delegate such authority under procedures established pursuant to this policy.
2. Contracts to which an institution is a party shall be reviewed by the SBHE’s or institution’s legal counsel or other qualified person delegated that responsibility by the institution’s president under institution procedures. Contracts to which the university system, including CTS, is a party shall be reviewed by the SBHE’s legal counsel. Standard form contracts, including employment contracts, purchase orders and other standard forms; template contracts reviewed and approved by legal counsel in the past two years; and documents that are substantially equivalent to documents reviewed and approved by legal counsel within the past two years do not require further review. Contract documents relating to purchase or use of software for less than \$2,500, including freeware, do not require legal review and approval, provided that when entering into such contract documents, the institutions and the university system office, including CTS, follow procedures established pursuant to this policy.
3. A document containing a clause requiring the state, the SBHE or one of its institutions to hold another party harmless or to indemnify another party must be reviewed and approved by legal counsel and may be executed only if there is an appropriation, liability insurance for that purpose, as otherwise specifically permitted by law, or if the clause is qualified or limited by language restricting its application to the extent permitted under North Dakota law. For software purchases under \$2,500, including freeware, institutions and the university system office, including CTS, may enter into agreements containing such clause(s) following procedures established pursuant to this policy.
4. The SBHE's legal counsel shall review and approve all contracts involving the SBHE.
5. SBHE approval is required for bond issues, tax-exempt financing, real property transfers, new buildings or additions, building or facility improvements estimated at more than \$250,000, or agreements committing to establishment or modification of academic programs. Contracts to which the SBHE is a party shall, absent a SBHE policy or resolution delegating

such authority to someone else, be signed by the SBHE president and attested to by the SBHE secretary.

6. Professional Student Exchange Program (PSEP Service Payback Agreements between a student and the SBHE may be signed by the Chancellor.
7. Written contracts are required for all binding agreements with another party that involve any stated or implied consideration, including real property transfers, leases, purchase of equipment, supplies and services, cooperative agreements, interagency agreements, grants, loans, easements and licenses.

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Policy: 901 Campus Planning and Facilities Management

Effective: January 24, 2019

1. Each campus shall maintain a physical development master plan that articulates long term goals and establishes strategies to achieve those goals for the campus that are consistent with the institution's mission. Campus and community input are required in formulating and substantially revising a master plan. Development of the campus shall be guided by the master plan.
2. A master plan must identify the future facility requirements needed to support campus development for anticipated changes in academic, research, and public service programs and enrollment, to be developed consistent with the guidelines as set forth by the Chancellor. The master plan must document and substantiate the institution's biennial capital budget priorities. The master plan must also document and substantiate the institution's deferred maintenance and life safety needs.
3. Every six years, each campus shall complete a new campus master plan, with updates and revisions made during the intervening biennia.
4. Each institution must define responsibilities for campus planning, facilities management and oversight of public improvements, including responsibility for preplanning, coordination, monitoring and tracking of all public improvements.

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Policy: 902.0 Definitions

Effective: January 24, 2019

As used in these 901 and 902 section policies, unless a different meaning plainly is required:

1. "Public Improvement" has the same meaning as that of North Dakota Century Code (N.D.C.C.) 48-01.2. When developing a project to renovate an existing facility, the project authorization request shall include all projected renovation anticipated within that facility for the next 12 months. Public Improvement total costs include:
 - a. Design costs (to include OMB preplanning revolving funds);
 - b. Architect and engineer fees;
 - c. Permits;
 - d. Insurance;
 - e. Land acquisition;
 - f. Site preparation or development;
 - g. Demolition and disposal;
 - h. Foundation and building construction or renovation, including fixed or attached equipment and furnishings;
 - i. Landscaping;
 - j. Infrastructure and utilities;
 - k. Mechanical and electrical;
 - l. Parking and driveways or roadways;
 - m. Hazardous material abatement;
 - n. Third-party costs;
 - o. Contingencies;
 - p. Value of work completed by institutional trade staff; and
 - q. All other costs, excluding FF&E.
2. "Construction" has the same meaning as in N.D.C.C. 48-01.2-01 and does not include maintenance operations.
3. "Construction cost" means the actual cost of constructing, building, modifying or repairing an existing building or fixed equipment (all Public Improvement Costs excluding FF&E).
4. "Maintenance" is servicing, repair, or replacement of facility components. It does not include the replacement of facility components, whereby the work changes the function of the building or includes substantial, additional improvements to meet codification requirements.

5. "Project budget estimate" means a cost estimate that is determined by, for example, applying historical data, such as construction costs per square foot for a laboratory, to an anticipated project scope of work in order to determine project feasibility.
6. "Detailed construction estimate" means a cost estimate derived from a significant work effort by design professionals. It includes costing of specific construction components used for the construction work based on a fully developed design. A detailed construction estimate should include actual quotes for equipment, fees, and other expenses including contractor proposals if appropriate. The intent of a detailed construction estimate is to be within 5% of actual construction costs.
7. "FF&E" is an acronym for Furniture, Fixtures, and Equipment, and refers to any equipment, fixtures, or furnishings which can be installed or removed without damaging the facility, or altering the occupancy status of the building. FF&E costs are not a component of the Public Improvement nor part of SBHE budget requests or authorizations.
8. "Formal fundraising campaign" means an organized and publicly announced undertaking to raise funds for an identified project.
9. "Capital Lease" means a lease that at its inception meets one or more of the following criteria:
 - a. The lease transfers ownership of the property to the lessee by the end of the lease term.
 - b. The lease contains a bargain purchase option.
 - c. The lease term is equal to 75 percent or more of the estimate economic life of the leased property. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criteria shall not be used for purposes of classifying the lease.
 - d. The present value at the beginning of the lease term of the minimum lease payments, excluding that portion of the payments representing executor costs, such as insurance, maintenance, and taxes to be paid by the lessor, including profit, equals or exceeds 90 percent of the excess of the fair value of the leased property to the lessor at the inception of the lease over any related investment tax credit retained by the lessor and expected to be realized by him. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease. A lessor shall compute the present value of the minimum lease payments using his incremental borrowing rate, unless (i) it is practicable to learn the implicit rate computed by the lessor and (ii) the implicit rate computed by the lessor is less than the lessee's incremental borrowing rate. If both of those conditions are met, the lessee shall use the implicit rate.

10. "Operating Lease" means a lease that does not meet the criteria of a capital lease.
11. "Change Order" means a written order to the contractor signed by the owner and architect and issued after execution of the contract, authorizing a change in the work or an adjustment in the contract sum or contract time.
12. A significant change or expansion of a public improvement includes a change or alteration which was not included in the original contract documents, and 1) would result in an increased cost exceeding five percent of the original contract value; 2) expand the project scope beyond what was described in the original authorization approved by the SBHE; or 3) exceeds the cost of work which must be competitively bid by N.D.C.C. chapter 48-01.2-02.1.

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Policy: 902.1 Construction Process-Legislative Approval; List of Funding Requests

Effective: January 24, 2019

1. SBHE approval is required before making a request or application for state or federal appropriations or to begin a formal fundraising campaign by an institution or entity acting under direction or on behalf of an institution for specifically identified public improvements as regulated by N.D.C.C. § 15-10-12.1. Authorization to raise funds does not include authorization to proceed with construction of the public improvement. Institutions may request authorization to proceed with construction concurrently with authorization to raise funds or seek general fund appropriations; providing that the information required in Policy 902.3(5) is included with the request.
2. The Chancellor shall adopt an implementing procedure that includes definitions or guidelines to identify major public improvements governed by this policy.
3. With biennial budget preparation, each campus shall submit to the Chancellor a prioritized list of public improvements consistent with the goals and strategies set forth in the campus master plan. The prioritized list of public improvements must include:
 - a. Major renovations to existing facilities;
 - b. Major renovations to existing infrastructure, including technology upgrading; and
 - c. New construction and additions to existing facilities, including the cost of renovating existing facilities that are made necessary by an addition or new construction.
4. The public improvement descriptions must, at a minimum, include:
 - a. Description and consistency with campus master plan;
 - b. Total costs, as defined in Policy 902.0;
 - c. Estimated FF&E costs and funding sources;
 - d. Funding sources for the public improvement;
 - e. Estimates of current and future costs, including operating costs and identified funding sources;
 - f. Other improvements directly related to or necessitated by the requested improvements; and
 - g. Responses to each of the criteria outlined in Section 7 of this policy.

5. As part of the biennial budget process, the Chancellor, in consultation with the campuses, shall submit a prioritized list of state funded public improvements to the SBHE. The SBHE shall approve a rank order list of state funding requests for major capital public improvements, along with an unranked list of non-state funded public improvements.
6. Major capital public improvement priorities must be consistent with the following categories, which are listed in order of priority (except that a and b have equal priority):
 - a. Public improvements to meet life/safety driven needs;
 - b. Public improvements to address deferred maintenance needs; and
 - c. Public improvements to address program/enrollment needs.
7. The SBHE shall use the following criteria to determine a rank order of public improvements listed. These criteria may be weighted by the SBHE before budget preparation, but must be considered in their totality when determining rank order of priorities. The Chancellor may prioritize public improvements by utilizing pre-established weighting criteria but will consider the totality of the project when determining the rank order of the public improvements. Weighting criteria may include the extent to which the public improvement:
 - a. Addresses current life, health and safety issues;
 - b. Addresses compliance with local, state or federal law or other requirements;
 - c. Corrects significant deferred maintenance;
 - d. Addresses a critical maintenance need defined by situations which must be addressed, and which, if neglected, could result in substantial damage to the structural integrity of the building;
 - e. Meets a compelling programmatic or accreditation justification consistent with campus mission and strategic goals;
 - f. Completes an uncompleted public improvement partially funded by the legislature in a previous biennium;
 - g. Supports a project funded by significant non-state dollars;
 - h. Advances a specific program or activity that is a high priority of the state;
 - i. Addresses an urgent infrastructure need;
 - j. Complies with campus master plan and is highly rated by the campus;
 - k. Demonstrates a necessity to improve the condition of existing space;

- l. Fosters the consolidation of services or enhances operating efficiencies; and
 - m. Enables the institution to remove obsolete or unnecessary facilities.
8. Improvements may be financed by issuance and sale of bonds under N.D.C.C. ch. 15-55 and other applicable laws and regulations. Institutions shall obtain SBHE approval to request required legislative authorization for revenue bonds.

References: N.D.C.C. § 15-10-12.1, § 48-01.2-25

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Policy: 902.3 Requests for Construction, Renovation and Remodeling; Change Orders; Changes in Public Improvement Scope or Size

Effective: January 24, 2019

1. All buildings and other public improvements must be constructed within the limits of appropriations, bond issues, or other specific authorization approved by the SBHE or the legislature.
 - a. An institution may not expend or enter into a contract to expend funds exceeding SBHE or legislative authorizations.
 - b. An institution may not significantly change project design, size, intended use, major components, or funding sources without SBHE approval. Legislative or budget section approval is also required for changes to certain projects, as per N.D.C.C. § 48-01.2-25.
 - c. The Chancellor is delegated authority to act for the SBHE and approve a request for a significant change or increased expenditure for a SBHE-approved project or approve a request to seek legislative or budget section approval when necessary. A request for Chancellor approval must be in writing. Chancellor shall report and request SBHE approval of authorization under this section at the next scheduled SBHE meeting.
2. All public improvements undertaken by an institution of the SBHE must comply with the regulations and requirements promulgated by the North Dakota Century Code (N.D.C.C.) for the acquisition and/or financing of public improvements.
3. The SBHE delegates to institutions authority to administrate public improvements, including authority to select architects, engineers or construction managers and to enter into contracts and do all things necessary and proper to implement this authority, subject to available funding and required authorizations outlined in policy or statute, as applicable.
4. Authority to select architects, engineers or construction managers includes authority to retain an architect or engineer for preliminary design work that may be required or useful to develop a viable proposal and reliable cost estimates. Costs shall be paid from currently available institutional resources or OMB preplanning revolving funds.
5. SBHE approval is required before construction of a public improvement using any source of funds, if the cost of the public improvement exceeds the legislative authority threshold established in N.D.C.C. § 15-10-12.1. Requests for authorization to proceed with construction of a public improvement must include:
 - a. A description;

- b. Estimated total purchased or donated costs, including in-kind donations;
 - c. Estimated other related costs, including FF&E and other costs not included in the public improvement costs, which must be separately identified;
 - d. Specific source(s) and availability of funds by amount;
 - e. Estimated completion date;
 - f. An explanation of how the public improvement coincides with or deviates from the campus facilities master plan, and the biennial budget;
 - g. References to any previous SBHE or legislative authorization; and
 - h. Identification of the individual(s) employed by the institution, and responsible for administration of the construction.
6. The SBHE delegates to the institutions authority to proceed with construction of a public improvement using any source of funds if the cost is below the legislative authority threshold established in N.D.C.C. § 15-10-12.1.
 7. Public improvements which modernize facilities or facility systems without changing the function, use, or occupancy of the facility do not require SBHE authorization when funded by local or auxiliary funds.
 8. Institutions may not separate or divide a single public improvement into multiple projects for the purpose of reducing the cost of construction below the threshold established in 902.3 (6).
 9. The contract sum and contract time may be changed only by change order. Change orders may not be used to significantly change or expand a public improvement or increase expenditures beyond what has been approved by the SBHE or legislature or to evade competitive bidding laws or policies.
 10. Builder's risk insurance, carried by the contractor, is required throughout the construction period.
 11. Except for a development or improvement not involving public funds on institution land leased to a private entity for development under SBHE Policy 910.0 or as otherwise explicitly approved by the SBHE, all public improvements on institution land or involving institutionally-owned buildings or facilities, or public improvements for the benefit of the institution on land or in a building or facility not owned by the institution requiring expenditure of any public funds, must be administrated by the institution. The institution must be a party to all contracts, and must account for all public improvement costs through the ConnectND accounting system. Public improvements must be monitored to ensure that authorizations are not exceeded. In the event it reasonably appears that a public improvement will exceed the spending authorization, institutions must seek appropriate SBHE or

legislative approval before any expense that exceeds the authorized amount is incurred.

12. The Chancellor will establish procedures implementing this policy.

Reference: N.D.C.C. ch. 48-01.2

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Policy: 902.5 Construction Process – Architects, Engineers and Construction Managers

Effective: January 24, 2019

1. Institutions shall procure plans, drawings and specifications for public improvements and works from a licensed architect or registered professional engineer as required by N.D.C.C. ch. 48-01.2 or N.D.C.C. § 43-19.1-28. Plans or specifications of buildings to be used in connection with farm or agricultural research at the North Dakota Agricultural Experiment Station may, with the approval of the SBHE, be procured from a registered professional engineer employed by the Experiment Station.
2. All architects, engineers and construction managers shall be selected in accordance with N.D.C.C. ch. 54-44.7, and construction managers shall be selected according to N.D.C.C. ch. 48-01.2.
3. Institutions shall not acquire specifications drawings leaving any portion of a public improvement unfinished without express approval of the SBHE.
4. The Chancellor shall adopt procedures implementing this policy and establishing guidelines for architect, engineer and construction manager services and agreements and contractor agreement guidelines and forms.

References: N.D.C.C. ch. 48-01.2, § 43-19.1-28, ch. 54-44.7

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Policy: 902.11 Fire and Tornado Coverage

Effective: January 9, 2019

All buildings must be insured at replacement cost or for another value in accordance with underwriting guidelines adopted by the insurance commissioner as required by N.D.C.C. § 26.1-22-10.1. After each reappraisal it shall be the responsibility of each institution to make the necessary adjustments in insurance coverage.

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Policy: 902.12 Building Names

Effective: January 24, 2019

1. The SBHE has final authority to name campus buildings, building additions, auditoriums and stadiums. Authority to name individual classrooms or lecture halls, meeting rooms, dining areas, athletic fields (including fields with minimal improvements such as bleachers, concessions areas and locker rooms) and other areas within buildings or other facilities is delegated to the institutions. All requests requiring SBHE approval shall be submitted to the Chancellor and forwarded to the SBHE with the Chancellor's recommendation.
2. When the request for naming a building requires changing an existing name that honors an individual, family, or other entity, the institution shall inform the individual, family, or other entity of the request to change the name and provide their response to the SBHE as part of the request.
3. Proposals to name buildings, building additions, auditoriums and stadiums or a part of a building or other facility in the following categories are discouraged:
 - a. A subject matter field.
 - b. A candidate for an elected office or a federal, state or local elected official so long as the official holds office.
 - c. An employee of the institution, NDUS, or SBHE unless the employee is in the final year of employment.

Reference: SBHE Policy 307.1

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Policy: 905 Special Assessments

Effective: January 9, 2019

Institutions shall not request the creation of a special assessment district without first seeking approval of the legislature. In the expenditure of plant improvement funds, all special assessments must be kept current.

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Policy: 906 Emergency Preparedness and Management; Continuity of Operations; Security

Effective: January 9, 2019

This policy addresses requirements for emergency preparedness and management, continuity of operations and security.

1. In order to meet federal and state emergency preparedness requirements, the chancellor and each institution president are responsible for ensuring that the NDUS office and each institution develop and implement comprehensive Emergency Management Plans, including emergency preparedness and continuity of operations, in order to meet federal and state requirements and NDUS and institution needs. The chancellor is responsible for direction and coordination of such plans, as well as coordination between the NDUS and federal and other state agencies. The NDUS Chief Information Officer will direct the collaboration of NDUS institution officers and employees in developing necessary provisions relating to information technology functions and operations.

2. Definitions

Continuity of Operations (COOP). A plan to assure the capability exists to continue essential agency or institution functions across a wide range of potential disasters or emergencies that includes: Ensuring continuous performance of essential functions during the disaster or emergency; protecting essential facilities, equipment, records and other assets; reducing or mitigating disruptions to operations; reducing loss of life, minimizing damages and losses; and, achieving a timely and orderly recovery from an emergency and resumption of full service to students and customers.

Disaster. A disaster defined in N.D.C.C. section 37-17.1-04 as determined by the governor, including events that directly impact the NDUS or its institutions or require a response or assistance from the NDUS or its institutions; and, other sudden, unplanned event not determined by the governor to be a disaster, but which involves danger or risk to many people, a community or institution, and determined by the chancellor or, following consultation with the chancellor, an institution president, to be a disaster.

Emergency. An emergency as defined in N.D.C.C. section 37-17.1-04 as determined by the governor, including events that directly impact the NDUS or NDUS institutions or require a response or assistance from the NDUS or NDUS institution; and, other situation not determined by the governor to be an emergency, but which threatens life, property, the environment, research or resources or requires significant law enforcement, rescue or recovery operations, and determined by the chancellor or, following consultation with the chancellor, an institution president, to be an emergency.

Emergency Management Plan. A comprehensive, integrated plan that addresses emergency preparedness, emergency management, disaster and emergency response and recovery, mitigation, and continuity of operations.

3. Each institution must develop and implement a comprehensive Emergency Management Plan, including provisions relating to emergency preparedness, disaster and emergency response and

recovery, mitigation, and continuity of operations. Institution Emergency Management Plans must be approved by the chancellor and on file with the system office. A copy should also be submitted to the North Dakota Department of Emergency Services (NDDDES).

4. Institution Emergency Management Plans must include the following:

- a. Designation of an officer or employee as chief emergency management officer;
- b. Establishment of an institution emergency management task force or committee, chaired by the institution's chief emergency management officer;
- c. Identification of and assignment of responsibilities to officers and employees in different units and various levels within the institution, so that the institution has a system in place that assigns and trains employees within institution units as necessary to develop unit or building specific responses and helps communicate institution and unit requirements;
- d. Clear and complete statements of assigned responsibilities;
- e. Consistency with the National Incident Management System (NIMS) and the North Dakota Emergency Operations Plan;
- f. Operation of an Incident Command System (ICS) as required to manage decisions during and after a major event;
- g. Identification of critical infrastructure, key assets and essential functions;
- h. Identification and responsibility for any Mutual Aid Agreements with other entities, including law enforcement and fire departments, medical facilities, American Red Cross; local emergency centers, etc.;
- i. Procedures for shelter-in-place, evacuations, bomb threats, fires and explosions, chemical spills, tornadoes, floods, winter storms or other natural disasters, etc.
- j. Minimum training requirements, to include ICS training for employees in ICS positions, and assignment of training responsibilities;
- k. Minimum exercise requirements and assignment of exercise responsibilities;
- l. A process to review and update the Plan as necessary, not less frequently than every four years;
- m. After action meetings following major incidents and development of plans to address identified issues or shortfalls;
- n. Incorporation of an Emergency Notification System, required by SBHE Policy1902;
- o. A mechanism for reporting by institutions of incident-related information or actions to the NDUS for situational awareness purposes and coordination by the NDUS with NDDDES through WebEOC;
- p. A mechanism for coordinating with the local emergency managers and local responders for

the jurisdiction in which an institution is located; and

- q. Details regarding how the institution plan integrates into, supports, and is supported by the local emergency operations plan of the jurisdiction in which the institution resides.

5. Institution Emergency Management Plans may also include the following:

- a. A mechanism for coordinating with the local emergency managers and local responders for the jurisdiction in which an institution is located;
- b. A threat analysis and risk assessment of potential natural, technological, and adversarial hazard which may impact an institution;
- c. A Base Plan that provides an overview of the institution's emergency response organization and policies, and a general understanding of the institution's approach to emergency response and recovery for all involved departments and offices; and
- d. Base Plan Functional or Incident Specific Annexes that identify specific responsibilities and outlines the concept of operations.

6. Each institution must adopt and implement a plan that addresses institution security. Institution security plans must be approved by the chancellor and on file in the system office. The plans must include, at a minimum:

- a. Establishment of a campus police department or, as an alternative to a campus police department, a memorandum of understanding or agreement with a local law enforcement agency, an agreement with a private security firm or firms, or employment of institution security staff, to address campus security and safety concerns building and property security, etc.;
- b. Maintenance of a list of critical infrastructure and key assets for prioritization of future safety and security enhancements;
- c. A plan for prioritizing and funding installation and maintenance of appropriate security infrastructure for existing buildings and new construction, including electronic and mechanical access control measures for residence halls and other buildings and facilities, improved or more strategic lighting, etc.;
- d. Incorporation of crime prevention through environmental design (CPTED) principles in new construction, renovation or remodeling and maintenance projects, to include review of architectural drawings, consulting design and construction staff, review of landscaping and lighting, and identifying safety concerns;
- e. Evaluation of needs and protocols associated with campus safety, such as safety escort services, sexual assault response, and emergency communications;
- f. Educational programming materials for faculty, staff and students that address personal safety and physical security;
- g. A system enabling anonymous reporting of possible threats to safety;

- h. A campus violence prevention committee;
 - i. A campus threat assessment team;
 - j. Maintenance of an incident reporting system; and
 - k. Compliance with campus safety, security and reporting requirements in the Clery Act, the Higher Education Opportunity Act, and other federal or state legislation.
7. The chancellor may adopt procedures to assist in implementation of this policy. In addition, the chancellor may authorize and approve an agreement or arrangement designed to make available necessary expertise and other resources required for implementation, including, for example, an arrangement under which an institution may develop plans or templates, or provide other assistance, to some or all other institutions or the system office.
8. The chancellor and institution presidents will, subject to funding and staffing constraints, develop and implement plans under which the system and institutions substantially must comply with these Policy 906 requirements by July 1, 2014.

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Policy: 907 Building Plaques

Effective: January 9, 2019

1. All newly constructed or acquired buildings, newly constructed major building additions over 1000 square feet in size and newly constructed major public improvements costing in excess of \$500,000 (Project) will be memorialized with a plaque. Building additions which serve primarily as entrances, mechanical areas, or other sundry areas which do not provide functional occupancy, are exempt from this policy. Projects acquired or constructed prior to January 1, 2000 are exempt from this policy.
2. The plaque must include the following information based on the date the SBHE provided authorization to proceed with the Project:
 - a. The name of the Project as approved by the SBHE;
 - b. The name of the Governor;
 - c. The names of the voting members of the SBHE, with the President of the SBHE so indicated;
 - d. The name of the Chancellor;
 - e. The name of the following officers, with their titles so identified, of the institution for which the Project has been approved: President, Vice President of Finance (or equivalent division), and Vice President of the institution division for which the Project was constructed /acquired;
 - f. The name of the Architect and primary contractors or CMaR for a Project that is newly constructed;
 - g. The year;
 - h. Other additional information as approved by the SBHE.
3. The Chancellor will adopt an implementing procedure that includes guidelines to identify the requirements for size, appearance, and location of the plaque; any further building or project exemptions; and, other necessary requirements.

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Policy: 908 Financing Through Revenue Bonds

Effective: January 28, 2020

1. Improvements may be financed through issuance and sale of revenue bonds pursuant to N.D.C.C. ch. 15-55 and other applicable state and federal laws, rules and regulations. The cost of issuance (COI) must be considered a deduction to the proceeds in determining funds available for the improvements. Requests to proceed with an improvement financed by bonds shall be made according to SBHE Policy 902.1 and other applicable policies. SBHE approval is required 1.) to seek legislative authorization for projects and revenue bonds; 2.) for an Initial Resolution Authorizing the Issuance of Revenue Bonds; and 3.) for the Final Resolution Authorizing the Issuance of Bonds, execution of a Supplemental Indenture of Trust (if applicable), Bond Purchase Contract and related documents.
2. SBHE approval is required for refunding bond issues.
3. The issuance of tax-exempt obligations by the SBHE shall be coordinated by the institutions with the NDUS Office in the manner determined by the Chancellor.
4. Pursuant to N.D.C.C. § 15-55-10, revenue bond authorization shall expire four years after the effective date of legislative authorization, unless bonds have been issued for construction as authorized, a design contract has been signed, or the authorization specifies a different expiration date.
5. Institutions shall submit copies of all bond rating reviews and updates to the NDUS office when issued and received by the institutions.

Reference: N.D.C.C. § 15-55-10

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Policy: 909 Real Property Leases

Effective: January 28, 2020

1. Except for agreements concerning development of institution property governed by Section 910.1 and subject to restrictions stated in this policy or state law, authority to negotiate and execute real property leases and rental agreements is delegated to the institutions.
2. Real property is defined as land and buildings or other structures attached or affixed to the land, including attached and integrated equipment, anything growing on the land, including crops, and mineral interests.
3. All real property leases must be classified as either capital or operating leases. If at its inception, a lease meets one or more of the following four criteria, the lease will be classified as a capital lease by the lessee; otherwise, it will be classified as an operating lease:
 - a. The lease transfers or permits transfer of ownership of the property to the lessee by the end of the lease term;
 - b. The lease contains a bargain purchase option;
 - c. The lease term is equal to 75 percent or more of the estimated economic life of the leased property. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion will not be used for purposes of classifying the lease; or
 - d. The present value at the beginning of the lease term of the minimum lease payments, excluding that portion of the payments representing executor costs, such as insurance, maintenance, and taxes to be paid by the lessor, including any profit, equals or exceeds 90 percent of the excess of the fair value of the leased property to the lessor at the inception of the lease over any related investment tax credit retained by the lessor and expected to be realized by him. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion will not be used for purposes of classifying the lease. A lessor shall compute the present value of the minimum lease payments using his incremental borrowing rate, unless (i) it is practicable to learn the implicit rate computed by the lessor and (ii) the implicit rate computed by the lessor is less than the lessee's incremental borrowing rate. If both of those conditions are met, the lessee shall use the implicit rate.
4. Clauses in real property leases which would give a lessee of SBHE real property an advantage in a subsequent sale of the property are prohibited.
5. The lease or rental, for a term of more than one year, of real property owned by the SBHE or an institution:

- a. Must be approved by the Chancellor unless otherwise provided by this policy. A lease or rental agreement for a term of one year or less must be approved by an institution officer delegated that responsibility pursuant to institution policies;
 - b. Must include a restriction prohibiting the lessee from making material alterations or improvements on or to the leased property without prior written authorization of the institution. Any alterations or improvements must conform to the aesthetics of the unit and surrounding area;
 - c. May not be for the purpose of sparring or wrestling exhibitions except in compliance with N.D.C.C. ch. 53-01;
 - d. For leases of agriculture land which reserve rent or service and leases of revenue producing buildings, may not exceed ten years; and
 - e. For cafes, restaurants or other concessions contracts, must be limited to a term of not more than ten years and include a clause permitting termination by the institution upon sixty days' written notice.
6. Institutions must establish policies governing lease or rental of institution facilities for tournaments, meetings and other events providing that:
 - a. Rent or fees must be sufficient to cover the institution's expenses associated with the event; and
 - b. The lessee must furnish documentation of liability insurance covering the event, naming the institution and state as additional insureds, with limits of liability no less than \$250,000 per person and \$1,000,000 per occurrence. Institutions may waive the liability insurance requirement for nonprofit groups and small events or substitute a requirement that every adult participant and a parent or guardian of every child participant execute, prior to being permitted to use institution facilities, a waiver releasing the institution and state from liability for every claim arising out of that person's participation in the event. Institutions may, for activities involving exceptional risk, require both liability insurance and waivers; and
 - c. Revenues from leases must be credited to the fund or funds which are utilized for the support, including maintenance, of the facility being leased.
7. A lease of real property from another entity by the system office must be approved by the chancellor and a lease of real property by an institution from another entity must be approved by an institution officer delegated that responsibility pursuant to institution policies. All leases of real property requiring expenditure of public funds by the system or an institution must be limited to the current biennium for which funds have been appropriated or include a termination clause permitting termination at the end of the biennium if appropriated or other available funds are insufficient to continue the lease payments. Leases must be executed by the institution's president, chief financial officer or other officer delegated that authority by institution policy or procedures. In addition to approval by an institution officer delegated such responsibility, an institution real property lease or lease renewal, including transactions under a master lease or an operating lease related to or part of a real property lease, requires chancellor approval if:
 - a. A lease entered into by NDSU or UND provides for total payments by the institution, including lease or rental, interest and all other payments over the lease term, of seven

hundred and fifty thousand dollars or more;

- b. A lease entered into by a NDUS institution other than NDSU or UND provides for total payments by the institution, including lease or rental, interest and all other payments over the lease term, of \$ five hundred thousand dollars or more; or
 - c. The lease term is five years or more.
8. The chancellor may, in the chancellor's discretion, submit a lease to the SBHE for consideration and approval in lieu of chancellor approval.
 9. As part of the mid-year budget status report to the SBHE's Budget and Finance Committee, institutions shall disclose new real property lease agreements. At year end institutions shall disclose all real property lease agreements to the System Office in a format determined by the Chancellor.

References: N.D.C.C. § 15-10-17(2) and (5), § 47-16-02, § 48-09-01

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Policy: 910 Transfer of Real Property

Effective: January 24, 2019

1. The SBHE must approve all purchases, sales, or exchanges of real property. Requests for SBHE approval shall show how the transfer or other proposal relates to the campus master plan for the institution.
2. Transfer of SBHE or institution land shall be by quitclaim deed executed in the name of the State of North Dakota by the Governor and attested to by the Secretary of State pursuant to N.D.C.C. § 54-01-05.1.
3. In all transfers of land, at least fifty percent of the oil, gas, or minerals shall be reserved to the State pursuant to N.D.C.C. § 38-09-01. All minerals shall be reserved in transfers of school lands that are original grant lands pursuant to the ND Constitution, Article IX, Section 5.
4. Sale or exchanges of real property not received by gift or bequest shall be authorized by a legislative bill pursuant to N.D.C.C. § 54-01-05.5. Sales shall be conducted pursuant to N.D.C.C. § 54-01-05.2, unless excepted from those provisions in the authorizing legislation.
5. Sale of real property received by gift or bequest requires the approval of the budget committee of the legislature pursuant to N.D.C.C. § 15-10-12.1.
6. Sale of original grant lands must be in accordance with N.D.C.C. ch. 15-06 and rules of the State Land Department.
7. Sales of University of North Dakota land to fraternal societies shall be conducted in accordance with N.D.C.C. § 15-11-30.
8. Pursuant to N.D.C.C. § 54-27-12, the SBHE may not approve, and institutions may not make any expenditure for land, buildings or other improvements in excess of any appropriation made by the legislative assembly for such purpose.
9. SBHE legal counsel shall approve all transfer documents utilized in sales, purchases, or exchanges.

References: ND Constitution, Article IX, Section 5; N.D.C.C. § 54-01-05.1, § 38-09-01, § 54-01-05.5, § 54-01-05.2, § 15-10-12.1, ch. 15-06, § 15-11-30, § 54-27-12

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Policy: 910.1 Development of State Land

Effective: January 9, 2019

1. Development of state land for either public or private use by a third party requires SBHE approval.
2. Sale or exchange of real property must be completed according to Section 910 and applicable statutes.
3. All proposals for private development of state land, lease of such land for private development, or sale or exchange of such land must be submitted to the SBHE for consideration and must be accompanied by a written report that includes:
 - a. An analysis of the land involved.
 - b. A determination whether the land is needed for present or future uses of the institution.
 - c. The name and address of each person or entity to whom such land is proposed to be leased, sold, or exchanged; and, if a partnership, the name and address of each partner; and, if a corporation, the name and address of each officer and director, and each shareholder with a ten percent (10%) or greater ownership interest.
 - d. The purposes for which the land is desired.
 - e. A map showing the boundaries of the land proposed to be sold or leased and the purposes for which the adjacent lands are used.
 - f. An explanation of how the transaction relates to the campus master plan for the institution.
4. A proposal for the sale or exchange of state land for private development which is approved by the SBHE must be submitted to the legislature for approval.

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Policy: 914 Easements

Effective: January 9, 2019

1. Easements upon or across institutional property must be approved by the institution's chief executive. All easements must be approved for form and compliance with State law by the institution's or the SBHE's legal counsel.
2. Grants of easements must:
 - a. Specifically describe the area of land and the property right conveyed.
 - b. Specifically state the length of time of the easement. The length of time of an easement should not exceed that period necessary to accomplish its purpose. In any case, easements must not exceed 99 years.
 - c. Specifically describe the purpose of the easement and its consideration.
 - d. Specifically describe special limitations, particularly when the easement crosses experiment station land or research plots.
 - e. Hold the State, SBHE, and institution harmless for activities carried on by the grantee.
 - f. Be granted in the name "State of North Dakota and ND State SBHE of Higher Education for the use and benefit of _____"
 - g. Be conveyed by quitclaim instrument or easement and be executed by the institution's chief executive and chief fiscal officer and the Governor and attested to by the Secretary of State.
3. Easements for utilities must provide that such utilities are underground unless that is impractical.
4. Proceeds of easements must be used in conformance with N.D.C.C. § 54-01-17.1.
5. Changes in the terms of easements are subject to the same requirements as the original easements.
6. Temporary easements acquired by the SBHE or the institutions must not be longer than five (5) years.

Reference: N.D.C.C. § 54-01-17.1

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Policy: 916 Campus Security

Effective: November 17, 2011

1. Pursuant to N.D.C.C. § 15-10-17.1, the Board delegates to its institutions authority to establish campus police departments, hire police officers and contract with or make arrangements with other agencies to provide for campus security.
2. Each institution shall comply with all requirements of the Student Right-to-Know and Campus Security Act, Clery Act and other applicable laws governing campus security, student notices and reporting.

Reference: N.D.C.C. § 15-10-17.1

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Policy: 916.1 Possession of a Firearm or Dangerous Weapon in a Campus Residence

Effective: February 22, 2018

1. For the purposes of this policy:
 - a. “Campus” refers to the areas identified by each institution for their respective reporting obligations under the Clery Act.
 - b. “Dangerous weapon” includes the items listed in N.D.C.C. § 62.1-01-01.
2. Except as provided by law, firearms and dangerous weapons are prohibited from campus buildings owned or operated by the SBHE, including the eleven institutions.
3. Per N.D.C.C. § 62.1-02-05, the Chancellor or institution president may give consent to a qualifying individual to store a firearm or dangerous weapon in a campus residence so long as the residence does not provide housing to undergraduate or graduate students of a NDUS institution. The President of NDSU may give consent to a qualifying individual to store a firearm or dangerous weapon in a non-campus residence on Agricultural Experiment Station property. The ability to provide consent is non-delegable and is not available for self-approval.
4. Consent given under this policy must be:
 - a. Documented or witnessed; and
 - b. When provided by a president, communicated to the Chancellor.

References: N.D.C.C. § 62.1-01-01, § 62.1-02-05

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Policy: 917 Smoke-Free Facilities

Effective: February 22, 2018

1. As per N.D.C.C. § 23-12-10, smoking is prohibited in all NDUS buildings, enclosed structures, and facilities. Institutions are responsible for enforcing this prohibition on their respective campuses.
2. For the purposes of this policy, “smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or form. Smoking also includes the use of an e-cigarette which creates a vapor, in any manner or any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.
3. Smoking as part of a traditional American Indian spiritual or cultural ceremony is not prohibited.
4. Smoking is prohibited within twenty feet of entrances, exits, operable windows, air intakes, and ventilation systems of enclosed areas in which smoking is prohibited.

References: N.D.C.C. § 23-12-10

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Policy: 918 Alcoholic Beverages

Effective: October 24, 2019

1. Definitions.
 - a. "Alcoholic beverages" means any liquid suitable for drinking by human beings, except prescription drugs or over-the-counter medications, which contains one-half of one percent or more of alcohol by volume.
 - b. "President" includes the dean of Dakota College at Bottineau.
2. The possession, sale, service, use, or consumption of alcoholic beverages upon land or in buildings at institutions under control of the Board is prohibited, except as authorized by the institution's president.
3. Alcoholic beverages may not be purchased with public funds unless the alcoholic beverages will be used for authorized training or educational purposes.
4. Each institution shall adopt policies and/or procedures implementing this policy.

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Policy: 1200.1 Consolidated IT Services

Effective: April 29, 2020

1. Policy

The State Board of Higher Education (SBHE) shall provide centralized IT services to all entities under its control.

2. Purpose of Policy

The IT resources of the NDUS support the academic, research, instructional, outreach, and administrative activities of the NDUS. It is the responsibility of all entities under the SBHE to provide these services in an efficient, cost-effective manner with a high level of quality of service.

3. Policy Details

- a. All institutions shall obtain the following IT services through Core Technology Services.
 - i. electronic mail
 - ii. file server administration
 - iii. database administration
 - iv. research computing
 - v. storage
 - vi. application server
 - vii. hosting services
 - viii. data warehouse access
- b. The chancellor shall adopt procedures and guidelines for deploying and managing these services to the institutions.
- c. The chancellor shall adopt procedures for requesting waivers to these mandated services.

References: N.D.C.C. §15-10-44.1, NDUS Procedure 1200.1

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Policy: 1201.0 Information Technology Planning, Reporting and Project Management
Effective: March 25, 2021

Consistent with NDCC section 15-10-44, the state board of higher education shall manage and regulate information technology planning and services for institutions under its control.

1. The chancellor is delegated authority and directed to develop information technology planning procedures and guidelines to meet the requirements of N.D.C.C. §54-35-15.2 (15) and of N.D.C.C. §15.10.44 related to information technology planning including:
 - a. Integration of higher education information technology planning and reporting with the board's strategic planning process and annual performance and accountability report required by section 15-10-14.2.
 - b. Development of an annual report concerning higher education information technology planning and services.
 - c. The SBHE shall collaborate with the information technology department to coordinate higher education information technology planning with statewide information technology planning.
 - d. The SBHE shall present information regarding higher education information technology planning, services, and major projects to the information technology committee on request of the committee.
2. The chancellor is delegated authority and directed to develop information technology project management procedures and guidelines to meet the requirements of N.D.C.C. §54-35-15.2 (11) and of N.D.C.C. §15.10.44 related to information technology projects including:
 - a. Development of information technology policies, standards, and guidelines in coordination with the information technology department.
 - b. Implementation of a process for project management oversight and reporting.

References: N.D.C.C. § 15-10-44, N.D.C.C. § 54-35-15

**NORTH DAKOTA
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Policy: 1202.1 Acceptable Use of Information Technology Resources Policy

Effective: May 23, 2018

1. Policy

Computing and networking resources are provided to support the academic, research, instructional, outreach, and administrative objectives of the North Dakota University System (NDUS) and its Institutions. These resources are extended to accomplish tasks related to the individual's status with the NDUS or its Institutions.

When using NDUS Information Technology (IT) resources, individuals are expected to act in a responsible manner just as they would when using the physical resources of the NDUS. This includes adhering to all laws and regulations, respecting others' rights to privacy, and respecting others' ability to make use of the resources. This policy sets forth NDUS' expectations regarding use of IT resources, outlines the user's responsibilities, and provides some examples of inappropriate use. While there are specifics provided in this policy, it is not meant to be an exhaustive outline of all acceptable use scenarios.

This policy applies to (1) current faculty, staff, and students of the NDUS ; (2) individuals connecting to a public information service provided by the NDUS; and (3) other individuals or organizations specifically authorized by the NDUS or an NDUS Institution to access or use NDUS IT resources.

2. Purpose of Policy

The IT resources of the NDUS support the academic, research, instructional, outreach, and administrative activities of the University System and the use of these resources is a privilege extended to members of the NDUS community. This policy outlines the responsible and appropriate use of these IT resources.

3. Definitions

- a. Data - Information collected, created, maintained, transmitted, or stored by or for the NDUS and its Institutions to conduct business. It includes, but is not limited to, information in electronic, paper, video, and audio formats.
- b. Institution - Any of the eleven colleges or universities within the NDUS.
- c. Confidentiality - Access to information is limited to those persons authorized to use the information.
- d. Integrity - Maintaining and assuring the accuracy and consistency of data over its entire life-cycle.

- e. Availability - The systems used to store information, the controls used to protect information, and the communications channels used to access information must be functioning correctly.
- f. Information Technology (IT) Resources - All NDUS or Institution owned, operated, leased, or contracted systems and services including, but not limited to, computers, databases, storage, servers, networks, input/output connecting devices, telecommunications infrastructure and equipment, software, and applications.

4. Policy Details

a. Responsibilities

- i. **Comply with the law and NDUS policy.** An individual's use of IT resources must not violate any federal, state, or local law, including, but not limited to, laws that prohibit threats, violence, obscenity, slander, and child pornography. An individual's use of IT resources must also be in compliance with all NDUS policies, regulations, procedures, and standards.
- ii. **Respect the rights and privacy of others.** Individuals must be respectful of others within the NDUS and campus communities; value the right of privacy of other members; recognize and respect the diversity of the campus community; and, comply with NDUS and Institution policies, state and federal laws, industry regulations, and contracts regarding the use of information that is the property of others.
- iii. **Abide by all applicable copyright laws and observe intellectual property rights.** Individuals are prohibited from using, copying, storing, or redistributing copyrighted material (i.e., digital music, movies, images, or electronic publications) or otherwise violating copyright or patent laws concerning computer software licenses or documentation. Generally, materials owned by others cannot be used without the owner's written permission. Individuals should also be careful of the unauthorized use of trademarks. Certain uses of such marks on websites or in domain names can constitute trademark infringement. Unauthorized use of an Institution's name in these situations can also constitute trademark infringement.
- iv. **Refrain from unacceptable behavior.** Individuals should refrain from any and all activities that damage IT resources or compromise the integrity of the network, computer systems, or data. This includes, but is not limited to, all items outlined in Section 2: Inappropriate Use.

b. Inappropriate Use

- i. **Unlawful or inappropriate communications.** Individuals shall not:
 - 1. Impersonate another individual with intent to deceive or cause harm; or
 - 2. Send illegal or inappropriate communications including, but not limited to, threats of violence, harassment, obscenity, or child pornography.

- ii. **Commercial or political use.** Use of IT resources for political purposes, private gain, private business purposes, or other personal use not related to job duties or academic pursuits is prohibited, unless such use is expressly authorized under NDUS or Institutional procedures, or, when not expressly authorized, such use is incidental to job duties or limited in time and scope, and such use does not: (1) interfere with NDUS or Institutional operation of IT resources ; (2) create additional costs; or (3) interfere with the user's obligations to the NDUS or Institution. Refer to N.D.C.C 16.1-10-02.
- iii. **Use of resources without authorization.** Individuals must not attempt to access or acquire data without appropriate authorization by the system owner or administrator. Individuals must not compromise the privacy or security of information by accessing or sharing data that they are not authorized to access or share.
- iv. **Interference with the operation of computer systems or networks.** Deliberate attempts to degrade or interfere with the performance or integrity of any IT resource are prohibited. Users also cannot prevent authorized individuals from accessing any resource.
- v. **Sharing of credentials.** Accounts, passwords, and other types of authorization assigned to individuals must not be shared with others. Users are responsible for any use or misuse of their authentication information and authorized services.
- vi. **Use of tools to assess security or attack computer systems or networks.** Unless authorized by the NDUS or Institution CIO, or NDUS or Institution IT Security personnel, individuals must not download and/or use tools that are used to assess the security of IT resources, or that are used to monitor communications (e.g., vulnerability scanners, network sniffers, port scanners, etc.). Individuals may not attempt to circumvent or subvert any system's security measures or data protection schemes, or exploit vulnerabilities to gain access to IT resources.
- vii. **Attempting to alter an NDUS IT resource.** Individuals who do not have the appropriate authorization must not alter or attempt to alter the hardware or software configuration of any NDUS or Institution IT resource. Individuals are prohibited from physically damaging any IT resource, whether intentionally or through negligence, unless specified to do so through appropriate data management standards and device de-commissioning.
- viii. **Harassment.** Individuals may not use NDUS or Institution IT resources to harass any other person or group. Prohibited activities include: (1) harassing, terrifying, terrorizing, intimidating, threatening, or offending another individual by conveying obscene language, pictures, or other inappropriate materials or threats of bodily harm, injury, or death to the recipient or the recipient's immediate family; (2) using an IT resource to contact another person repeatedly regarding a matter when an individual does not have a legal right or Institutional purpose to

communicate, once the recipient has provided reasonable notice that he or she desires such communication to cease; (3) using an IT resource to disrupt or damage the academic, research, administrative, or related pursuits of another individual or group; or (4) using an IT resource to invade or threaten the privacy, academic or otherwise, of another.

- ix. Export Control.** Exporting software, technical information, encryption software or technology, in violation of international or regional export control laws, is illegal. The appropriate Institutional contact should be consulted prior to export of any material that is in question.
 - x. Encryption of Data.** No data protection schemes may be used to intentionally deprive a unit or Institution from access to data or computing equipment to which they are entitled.
 - xi. Academic Dishonesty.** Use of NDUS or Institution IT resources to commit acts of academic dishonesty will be handled through the appropriate Institutional procedures.
 - xii. Respect the policies of NDUS member Institutions.** Individuals shall follow the policies and procedures of the NDUS institutions to which they are a student, faculty, staff or affiliate.
- c. Policy Compliance and Sanctions**
- i.** Individuals who use IT resources to violate NDUS or Institution policy, law, or contractual agreement, may be subject to limitation or termination of user privileges as well as appropriate disciplinary action, legal action, or both. Alleged violations will be referred to the appropriate NDUS or Institution office or law enforcement agency, according to NDUS or Institutional procedures.
 - ii.** The NDUS or Institution may deny access to information technology resources if it appears necessary to protect the confidentiality, integrity, or availability of these resources or to protect itself from liability.
 - iii.** Notice of violations and appeals of decisions will follow NDUS or Institutional procedures.

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Policy: 1202.2 Incident Response Policy

Effective: April 26, 2018

1. Policy

Each Institution of the NDUS must develop and maintain an Incident Response Plan detailing how the Institution will coordinate, manage, and report *IT security incidents*.

2. Purpose of Policy

The NDUS networks, information systems, and data are critical resources for accomplishing the mission of the NDUS. All NDUS users have an interest in the security of these resources, and share in the responsibility for protecting them. Prompt and consistent reporting of and response to *IT security incidents* protects and preserves the integrity, availability, and confidentiality of data and *IT resources* and helps the NDUS to comply with applicable law.

3. Policy Details

Core Technology Services (CTS) Office of Information Security shall adopt procedures and guidelines to assist Institutions in developing and maintaining an Incident Response Plan.

4. Definitions

a. IT Security Incident - An activity or event that results in damage to, misuse of, or loss of, an *IT resource* or data. Incidents include but are not limited to:

i. Loss of a computing device (misplaced, stolen, vandalized)

ii. Detection of a malicious program, such as a virus, worm, Trojan horse, keystroke logger, rootkit, remote control bot, etc.

iii. Detection of system compromise, unauthorized access, or access with unauthorized escalated privileges.

iv. Detection of a critical or widespread vulnerability or misconfiguration that might lead to a compromise of NDUS systems or data.

v. A significant threat of or actual loss of *private* or *restricted data*.

vi. Reasonable belief that *IT resources* are being used for criminal activity.

b. Information Technology (IT) resources - All NDUS or Institution owned, operated, leased, contracted, or cloud hosted systems and services. All personally owned systems that are used to access NDUS or Institution systems or data. This would include, but is not limited to, computers, databases, storage, servers, networks,

input/output connecting devices, mobile devices, telecommunications infrastructure and equipment, software, and applications.

- c. Institution - Any of the colleges or universities within the NDUS.
- d. NDUS - Includes the NDUS System Office, Core Technology Services (CTS) and member institutions.

Reference: NDUS Procedure 1202.2

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Policy: 1202.3 Data Privacy Policy

Effective: October 27, 2016

1. Policy

The NDUS affirms that the mutual trust and freedom of thought and expression essential to the academic mission of the NDUS and member institutions rests on an expectation of privacy, and that the privacy of those who work, study, teach, and conduct research in a university setting will be respected. The NDUS recognizes that as faculty, staff and students create, use and store more information in electronic form, there is growing concern that information the user or creator considers private may be more vulnerable to invasion than information stored in more traditional media. This policy is intended to highlight some general principles that should help to define the expectations of privacy of those in the NDUS community.

The NDUS also has the legal responsibility to ensure that the IT resources it operates are used appropriately and efficiently. The data contained on NDUS IT resources are presumed to be NDUS property unless NDUS' rights are otherwise limited by law, policy, or contract. In any case, the data contained on those IT resources are subject to monitoring and/or copying by the NDUS. That is, in order to meet its oversight obligations, the NDUS, through individuals operating within the course of their legitimate job duties, may periodically, routinely, or for a specific purpose monitor activity on its IT resources. These individuals may include IT personnel and appropriate administrators and supervisors on each campus.

This policy applies to (1) current faculty, staff, and students of the NDUS ; (2) individuals using IT resources or data provided by the NDUS; and (3) other individuals or organizations specifically authorized by the NDUS to access or use NDUS IT data.

2. Purpose of Policy

This policy outlines the general rules and expectations governing the NDUS' rights to access data and its responsibilities to protect the data and privacy of its constituents.

3. Definitions

- a. Availability - The systems used to store information, the controls used to protect information, and the communication channels used to access information must be functioning correctly.
- b. Confidentiality - Access to information is limited to those persons authorized to use the information.
- c. Data - Information collected, created, maintained, transmitted, or stored by or for the NDUS and its Institutions to conduct business. It includes, but is not limited to,

information in electronic, paper, video, and audio formats.

- d. Information Technology (IT) resources - All NDUS or Institution owned, operated, leased, or contracted systems and services including, but not limited to, computers, databases, storage, servers, networks, input/output connecting devices, telecommunications infrastructure and equipment, software, and applications.
- e. Institution - Any of the eleven colleges or universities within the NDUS.
- f. Integrity - Maintaining and assuring the accuracy and consistency of data over its entire life-cycle.
- g. NDUS - Includes the NDUS System Office, Core Technology Services (CTS) and member institutions.
- h. Owner - The author or creator of information or an NDUS employee who has administrative or operational responsibility for an IT resource and/or the information it contains.
- i. Private Data - This is data that should not be available to the public. It is data that may be protected by federal or state laws, regulations, contracts, or policy.
- j. Public Data - This is data that is not considered to be “Restricted” or “Private”. It is data that can generally be released to the public.
- k. Restricted Data - This is data that requires the highest level of protection. It is data protected by federal or state laws, regulations, contracts, or policy. The unauthorized disclosure of restricted data would typically require the university system to report the disclosure and/or provide notice to the individual whose data was inappropriately accessed.
- l. System administrator - The individual responsible for the technical operation of a particular IT resource.

4. Policy Details

- a. In accordance with NDUS *1202.1 Acceptable Use of Information Technology Resources Policy*, limited personal use of NDUS IT resources may be permissible, but there is no guarantee that personal communications will remain private or confidential.
- b. Consistent with existing NDUS policy and State and federal laws, the NDUS reserves the right to access, review and release electronic information that is transmitted over or stored on NDUS IT resources. In most situations, the NDUS’ need for information will be met by simply asking the owner for it. In some cases, information transmitted or stored on NDUS’ IT resources will be accessed without the consent of the owner when there is a reasonable basis to believe such action:

- i. Is necessary to comply with legal requirements including being subject to the open records laws of North Dakota.
 - ii. May yield information necessary for the investigation of a suspected violation of law or regulations, or of an infraction of NDUS policy.
 - iii. Is needed to maintain the security, integrity, or functionality of NDUS IT resources or to protect the NDUS from liability.
 - iv. May yield information needed to deal with an emergency.
 - v. Will yield information that is needed for the ordinary business of the NDUS to proceed.
- c. Except as otherwise provided by law, individuals will be notified of access to, or disclosure of, the contents of their email, voice mail, computer, or computer account. In cases where such notification might jeopardize an ongoing investigation, it may be delayed until the conclusion of the investigation.
- d. The NDUS does not share restricted or private data with third parties except in the following situations:
 - i. When the owner of the data has given prior consent.
 - ii. When third parties act as agents of the NDUS and adhere to data privacy standards that meet or exceed the NDUS' standards as well as applicable laws and/or regulations.
 - iii. When participating in higher education data exchange consortia or research studies where providing such data is necessary and the parties receiving the data adhere to data privacy standards that meet or exceed the NDUS' standards as well as applicable laws and/or regulations.
 - iv. When compelled to do so under the law with a valid legal request, such as a subpoena or court order.
- e. Access to restricted and private data is limited to individuals with a business need for that information. Handling of and access to restricted and private data will be done in accordance with *1203.7 Data Classification and Information Security Standard*.
- f. System administrators may have access to data as required for the maintenance and support of an IT resource. They may also have an additional layer of access that permits them to modify the IT resource itself on top of the data it contains. Administrative access rights to IT resources with restricted or private data must be limited to system administrators with a specific business reason for access and such access must be logged; any access rights must change if their university or status changes.

- g. Individuals are prohibited from viewing, copying, altering, or destroying another individual's electronic information without explicit permission (unless authorized or required to do so by law or regulation). The ability to access a file or other information does not imply permission to do so unless the information has been placed in a public area such as a web site.

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Policy: 1203.1 Digital Accessibility

Effective: January 28, 2020

1. Policy

- a. NDUS and its institutions shall provide access to programs, services and activities to qualified individuals with known disabilities as required by law. An individual requesting an accommodation may be required to provide documentation of eligibility for the accommodation.
- b. All NDUS websites, web services, and web applications shall be accessible to and usable by individuals with disabilities as required by law and as described below.
 - i. All new or revised websites, web services, and web applications published, hosted or otherwise provided by NDUS or its institutions must be in compliance with the World Wide Web standards defined in the Federal Rehabilitation Act Section 508.
 - ii. Upon specific request, information on legacy websites, web services, and web applications is to be made available to any individual needing access to such content, by revision or otherwise.
 - iii. Upon specific request, information on websites, web services, and web applications in archive status (e.g. no longer in use but subject to records retention plans) containing core administrative or academic information, official records, and similar information is to be made available/accessible to any individual needing access to such content, by revision or otherwise.

If compliance with subdivision (b) is impossible or would impose an undue financial or administrative burden, the appropriate institutional Chief Information Officer (CIO) may grant an exception in writing, explaining with specificity the reasons why compliance is impossible or would impose an undue financial or administrative burden.

- c. Each NDUS website must contain an accessible link or a person to contact if users have trouble accessing content within the site. The inclusion of a link or contact person is not, in and of itself, sufficient to comply with this policy.

2. Definitions

- a. "Individual with a disability":

- i. Any person who has a physical or mental impairment which substantially limits one or more of the person's major life activities.
 - ii. Any person who has a record of such impairment which means that a person has a history of or has been classified as having a mental or physical impairment that materially limits one or more major life activities.
 - b. “Qualified individual with a disability.” An individual who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for receipt of services or participation in a system office, college, or university program or activity. Essential eligibility requirements include, but are not limited to, academic and technical standards requisite to admission or participation in an education program or activity.
3. Each institution shall adopt policies and procedures pursuant to this policy.
4. This policy shall go into effect on October 1, 2020.

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Policy: 1205.1 State Longitudinal Data System

Effective: January 24, 2019

The state longitudinal data system (SLDS) is established in N.D.C.C. chapter 15.1-02, under management of the statewide longitudinal data system committee. The chancellor, or chancellor's designee, is a member of the committee.

Reference: N.D.C.C. § 15-1-02; NDUS Procedure 1205.1

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Policy: 1206.1 Data Element Dictionary – Data Quality and Integrity

Effective: January 24, 2019

1. Every NDUS employee who uses data as part of the employee's job (whether entering, extracting, analyzing or reporting data) is responsible for the quality of the data and using it as described in the data element dictionary.
2. The NDUS Core Technology Services is responsible for managing the [data element dictionary](#) in consultation with NDUS institutions. The data elements include fields (dimensions) used in computer systems and calculations (facts) made with that data from which institution and university system reports are drawn. By standardizing the data going into the systems, and standardizing calculation formulas, reporting will be more reliable and comparable between campuses.

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Policy: 1901.2 Computing Facilities

Effective: January 31, 2003

All employees, students and other users of North Dakota University System computing and networking resources shall comply with applicable laws, policies and procedures. The chancellor shall adopt procedures establishing rules governing access to and use of computing and networking resources.

Reference: NDUS Procedure 1901.2

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Policy: 1902 Emergency Notification Systems

Effective: January 17, 2013

1. Effective with the beginning of the fall 2008 semester, each institution and the NDUS office shall have in place an emergency notification system. An “emergency notification system” means a system established for the purpose of and dedicated to enabling institution or system officials to quickly contact or send messages to employees and students in event of an emergency. An “emergency” means a situation that poses an immediate threat to the health or safety of someone in the institution or system community or significantly disrupts institution or system programs and activities.
2. All NDUS employees, including student employees, must participate in the emergency notification system. Participation means employees shall submit emergency notification information and update that information as provided in the institution’s or system’s emergency notification system policy and procedures.
3. All NDUS students must participate in the emergency notification system and are required to do so during registration or as otherwise provided under an institution’s emergency notification system policy or procedures. All student employees, including undergraduate and graduate student employees, must participate in the emergency notification system.
4. Employee emergency notification telephone numbers or other emergency notification information is exempt from the state’s open records laws as provided in Policy 1912 and may be released only as provided in that policy. Student emergency notification information, or contact information such as phone numbers or email addresses submitted for purposes of participation in an emergency notification system, shall be excluded from directory information and is therefore confidential as provided under the Family Educational Rights and Privacy Act (FERPA). However, if a student phone number or email or other address submitted for the purpose of participation in an emergency notification system is also contained in other institution records used for other purposes, the information contained in the other institution records is directory information and not confidential, unless a student has exercised the student’s right to refuse to permit disclosure of directory information.
5. Each institution shall adopt an emergency notification system policy and implementing procedures including:
 - a. Statement that employee, including student employee, participation is mandatory;
 - b. Statement that student participation is mandatory;
 - c. Restrictions on use only for an emergency as defined in this policy and authorized

- tests, which must be conducted at least once each semester;
- d. Policy governing student use of cell phones in class, including a provision permitting instructors to require students to turn cell phones off in class only if the instructor has a registered cell phone or other phone or other means of receiving emergency messages in use at all times students are required to turn their cell phones off;
 - e. Procedures governing updates and refreshing data, including a requirement that data be refreshed at least once each semester;
 - f. Identification of officials authorized to activate the system;
 - g. Instructions to employees and students for reporting emergency situations or incidents, including offices and telephone numbers of designated officials to whom emergency situations or incidents should be reported;
 - h. Guidelines regarding notice to or contacts with media;
 - i. Procedures for additional notifications as appropriate depending on circumstances.
6. Institution policy and procedures, including all updates or revisions, shall be filed with the system office.
7. The chancellor shall adopt an emergency notification procedure for the NDUS office, including a system for notifying office employees of an emergency specific to the office and for notifying key institution employees or designated institution emergency contacts as necessary or appropriate.
8. Subject to review and approval of the NDUS CIO, institutions may contract with a vendor or vendors for provision of emergency notification systems. If warranted based on consideration of administrative efficiencies and cost, the chancellor may require a single, uniform system for all institutions.

Reference: NDUS Procedure 1902

History: New policy, SBHE minutes, April 3, 2008; Amended, SBHE minutes, November 6, 2008; Amended, SBHE minutes, January 17, 2013.

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Policy: 1914 Centers of Excellence Applications

Effective: April 3, 2008

1. NDUS institutions may submit applications for centers of excellence funding according to chapter 15-69 of the North Dakota Century Code and this Policy 1914.
2. Presidents shall keep the Chancellor informed and upon request provide informal reports to the Chancellor regarding plans for centers of excellence applications as those plans are developed.
3. At least 30 days prior to submission of a centers of excellence application to the department of commerce, the institution or institutions planning to submit the application shall submit to the Chancellor a brief synopsis of the application.
4. An institution may proceed with an application to the department of commerce following chancellor review and notification the Chancellor does not have concerns. If the chancellor notifies the Board of unresolved concerns, an institution may proceed with application to the department of commerce only with Board approval.

Reference: N.D.C.C. chapter 15-70