

# North Dakota State University

## Rights and Responsibilities of Community: A Code of Student Behavior

Office of the Dean of Student Life  
Division of Student Affairs  
*August 2005*

**This publication will be made available in alternative formats upon request  
(701-231-7671 or TTY 701-231-7671).**

Questions please contact  
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& Responsibilities

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### **Introduction**

Higher education plays a vital role in educating future leaders by providing students with educational opportunities both in and outside of the classroom. The more time and energy students invest in educationally purposeful activities, the more they gain from their education. Learning is as much a social activity as a solitary endeavor.

To ensure that NDSU students have an opportunity to gain the most from their education, they are encouraged to participate as committed citizens of the community. Part of being a committed citizen is to act in a civil and responsible manner, accept responsibility for actions, and serve as a positive role model for others. Citizenship includes knowing and following local, state, and federal laws and the University's Code of Student Behavior. Every NDSU student has the responsibility to observe and to help maintain a code of personal behavior that contributes to the educational effectiveness of the University.

The Code of Student Behavior identifies core values that are important to an educationally purposeful environment. These values are Respect for the NDSU Community and Respect for the Protection and Rights of Others. Our goal with this Code is educational and developmental as we work with students.

### **Respect for the NDSU Community**

The purpose of this value is to communicate the importance of conducting oneself in a manner that does not negatively affect the educational mission of the University or the welfare of oneself or others. Respect for the NDSU community includes promoting an environment that is conducive to learning and nurturing a sense of shared and mutual community responsibility. Community also involves an awareness of how personal decisions affect others.

### **Respect for the Protection and Rights of Others**

The purpose of this value is to communicate the importance that the University places on respect for the protection and rights of others. Behaviors that inhibit the educational process, whether they occur on the University premises and/or in association with activities sponsored or supervised by the University on or off campus, are of concern. A community that respects the protection and rights of others is necessary in order to provide a positive and enriching educational environment.

### **Participation in Conflict Resolution Process**

The University's relationship is with students and our goal is to work with students in an educational and developmental manner, and assisting them to reflect on and grow from their personal experiences. For this reason other persons may not participate in our process. However, a person may be present as an advisor.

## 1. Preamble

The President of North Dakota State University is charged with the responsibility for the development and administration of institutional policies and rules governing the role of students and their behavior. Furthermore, the President has the responsibility of establishing guidelines for student behavior that set forth behavioral standards and provide for appropriate procedures and sanctions for violation of those standards, consistent with procedural fairness (North Dakota State Board of Higher Education Policy Manual, 305.1). The President has delegated student behavior responsibilities to the Vice President for Student Affairs, while retaining the role as the final arbiter in selected cases. The Vice President has assigned the Dean of Student Life to carry out these functions.

A Code of Student Behavior contains statements of those University regulations and policies relevant to student life. The development and enforcement of these standards of behavior is an educational endeavor designed to foster students' personal, social, moral, and ethical development. This document forms the basis for student behavioral expectations in the NDSU community. The enforcement of these standards serves to promote the protection of the rights, responsibilities, health, and safety of members of the NDSU community so that its members may pursue their educational goals without undue interference and the personal growth of students in conflict with the Code.

The content of this Code was developed by the Office of the Dean of Student Life with input from a committee of individuals that included various members of the Division of Student Affairs, a student representative, the Chief of NDSU Police, and the General Counsel, in consultation with the Vice President for Student Affairs.

The contents of the Code may be subject to change prior to the reprinting of this document. If changes are made, documents relating to the changes will be available from the Office of the Vice President for Student Affairs or Dean of Student Life Office, printed in the *Spectrum* or other appropriate publications, and will be

included in future Code revisions. An attempt has also been made to reference local, state, or federal laws that complement University policies and regulations. Questions should be referred to the Dean of Student Life Office.

## 2. General Behavior Code

**2.1 General Student Responsibilities** Every NDSU student has the responsibility to observe and to help maintain a code of personal behavior and social relationships that will positively contribute to the educational effectiveness of the University and one's own personal growth. To this end, students are expected to observe the University standards published in this Code and those outlined in any other University policies, regulations, contracts, or license contracts published elsewhere. In addition, students are expected to observe the laws of the community, the state, and the nation at all times, on and off campus.

**2.2 Persons Covered Under This Code** For the purpose of this document, student refers to all individuals who have been admitted to the University, to previously enrolled students for any act committed while they were enrolled students or between all periods of enrollment, to students and others similarly associated with the University, and to all campus visitors. Student organizations are held to the same behavioral standards that apply to individual students.

**2.3 Off-Campus Acts** When acts committed off campus by students affect the interests of the University community, those acts may also be subject to resolution under this Code. The University addresses all reported off-campus student behaviors that involve illegal or abusive use of alcohol and/or other drugs and violence. In addition, there may be other off-campus behaviors that affect the interests of the University. A sample, but not exhaustive, listing of these acts are outlined in section 4.17, Personal Inappropriate Behavior Not on University Property.

**2.4 NDSU Student Employees** When students commit acts that potentially violate this Code while in their capacities as student employees of NDSU, the University reserves the right to review those potential conflicts with these standards.

When viewed as appropriate, NDSU may pursue resolution of those conflicts under this Code in addition to any other personnel actions that may be taken against the students as employees.

### **2.5 Inappropriate Behavior by Student**

**Athletes** Because of their special relationship to the University, student athletes are responsible for observing the content of this Code as well as the Student Athlete Code of Conduct and team rules. For this reason, student athletes may face hearings under both Codes and different findings and/or sanctions may result. If criminal charges are also pending, the student athlete may answer separately to three different jurisdictions for the same set of circumstances. Because the University's procedures are educational (administrative) and not criminal in nature, such separate procedures do not constitute double/triple jeopardy. The University may proceed before, during, or after criminal proceedings.

**2.6 Violations of Law** When students commit acts that are also violations of community, state, or federal laws, on or off campus, those students will be subject to the same civil and/or criminal penalties as any other citizen in addition to campus resolution. Campus resolution of such acts may proceed before, during, or after the civil or criminal proceedings are concluded. Since the campus actions are educational, taking the University's educational interests into account, and not criminal proceedings, such simultaneous actions do not constitute double jeopardy and differing judgments may result.

**2.7 Bias-Motivated Violations** Any Code violation from this section, or any other section of the Code, that is determined to have been motivated by hate based on age, race, color, disability, religion, sex (gender), national origin, or sexual orientation may result in enhanced sanctions above those typically assigned for the same violations when not motivated by hate.

**2.8 Repeated Code Violations** Repeated violations of this Code are relevant in determining a student's continued membership in the University community. Progressively more severe sanctions, including Suspension or

Expulsion from the University, may be assigned, depending on the nature of the violation(s).

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

**2.10 Final Code Authority** The behaviors described in this Code are illustrative rather than exhaustive and are offered for educational purposes. In the event there arises some ambiguity, inconsistency, or need for clarification in these statements, such definition, interpretation, or clarification will be determined at the sole discretion of the Vice President for Student Affairs or the Dean of Student Life and that determination will be final. A student, staff, or faculty member may request written clarification from the Vice President for Student Affairs or the Dean of Student Life.

## **3. Behavior Expectations and Responsibilities**

The following sections outline those forms of behavior that are inappropriate in a University community. These forms of inappropriate behavior have been organized into two groups to help students understand the standards of behavior that are not appropriate. These are *Respect for the NDSU Community* and *Respect for the Protection and Rights of Others*. The forms of inappropriate behaviors that are outlined are not intended to be exhaustive. Instead, these are intended to assist students to avoid conflicts with University rules and regulations and other members of the University community. Most students will find that avoiding these inappropriate behaviors will not restrict their activities unnecessarily and will protect the rights and freedoms of everyone in the University community.

To facilitate correspondence between the student and the University, NDSU will use either the most recent U. S. mailing address provided to the University Registration and Records Office, 110 Ceres Hall, or the student's NDSU e-mail account. Students are expected to maintain current local mailing addresses and are expected to activate and regularly monitor their NDSU e-mail accounts.



**General Complaint Procedures** The Vice-President for Student Affairs Office has established a procedure for students to file complaints regarding student concerns or other issues. The purpose of the procedure is to provide for an orderly collection of information, to address students' complaints in a timely manner by appropriate University personnel, and to help students learn effective conflict resolution skills.

A form is available in the Vice President for Student Affairs Office, Old Main 100, the Dean of Student Life Office, Memorial Union 368 or on-line ([www.ndsu.edu/vpsa/forms/ProblemsForm.pdf](http://www.ndsu.edu/vpsa/forms/ProblemsForm.pdf)), to assist students in stating the problem and the desired problem resolution. In addition, students may arrange a meeting with the Associate Director of Student Rights and Responsibilities, Memorial Union 368, at any time during the process for advice and direction in resolving the problem.

#### **4. Respect for the NDSU Community**

The purpose of this section is to communicate the importance of conducting oneself in a manner that does not negatively affect the educational mission of the University or adversely affect the welfare of oneself or others. Respect for the NDSU community includes promoting an environment that is conducive to learning and nurturing a sense of shared community responsibility.

**4.1 Violations of Law** The University reserves the right to address any behaviors occurring on or off campus that may be construed as potential or alleged violations of local, state, or federal laws. Campus proceedings may ensue before, during, or following the pendency of civil and/or criminal proceedings. Because the University uses a lower standard of proof in Code proceedings than that used in criminal courts, differing judgments may result.

**4.2 Alcohol/Drug Use** (See Section 155 of the NDSU Policy Manual: Alcohol and Other Drugs: Unlawful and Unauthorized Use by Students and Employees at [www.ndsu.edu/policy/155.htm](http://www.ndsu.edu/policy/155.htm)). North Dakota State University maintains an alcohol/drug free campus, subject to minor exceptions noted below. Section 155 applies to students and employees, regardless of the individual's age.

**4.2.1 Alcohol on NDSU Property** The manufacture, sale, transfer, purchase, transportation, possession or consumption of an alcoholic beverage anywhere on NDSU property (including University vehicles, regardless of location), is prohibited. Exceptions may include the lawful possession of alcohol in family student residences, when permitted, on campus professional staff residences, fraternities and sororities (in certain circumstances), the President's residence, and other special exceptions as granted by the President or the President's designee. Special exceptions must be educational in nature and comply with requirements outlined in section 4.2.8 of this document.

**4.2.2 Behaviors While Under the Influence of Alcohol or Other Drugs** Being under the influence of alcohol or other drugs is a violation of this Code while a person is on University owned or controlled property, or at a NDSU sponsored or supervised function, and the person: a) endangers, or may endanger, the safety of others, property or themselves; or b) causes a disturbance.

**4.2.3 Minors in Possession/Consumption/Under the Influence of Alcohol While on Campus** As a minor, being under the influence of, possessing, manufacturing, exchanging, distributing, purchasing, using, or selling alcohol on NDSU owned or controlled property, or at NDSU sponsored or supervised events, is prohibited.

**4.2.4 Driving Under the Influence of Alcohol or Other Drugs**, regardless of location, is prohibited under this code.

**4.2.5 Possession of Alcohol and/or Alcohol Beverage Container** Possession or display of empty alcohol beverage containers, including but not limited to cans, bottles, and kegs, on the NDSU campus, including those held by unauthorized individuals for the purpose of recycling is prohibited.

**4.2.6 Alcohol at Student Organization Events** Recognized NDSU student organizations planning off campus events at which alcohol may be available (within the premises at which the event takes place) must complete and file with the

Student Activities Office, Memorial Union 360, an Event Risk Management Planning Notification Form. This form is available in the Student Activities Office and on line via the NDSU Memorial Union webpage at [www.ndsu.edu/memorial\\_union/erma/index.php](http://www.ndsu.edu/memorial_union/erma/index.php). Events involving alcohol must be closed events, intended only for organization membership and invited guests, and alcohol must be sold/served by a licensed third party vendor. Policies for event planning include:

**4.2.6.1 Open parties** at which alcohol may be present, are prohibited by the University. Open parties are defined as events with unrestricted access by nonmembers of the organization without specific invitations.

**4.2.6.2** Student organization or public funds may not be used for the purchase of alcoholic beverages.

**4.2.6.3** Sale of alcoholic beverages by students and student organizations is strictly forbidden. This includes any action that can be remotely construed as an alcohol sale such as charging admission to parties, passing the hat, selling empty cups, selling drink tickets, etc. Alcohol sales may only be conducted by licensed third party vendors, and made available only in individual serving containers. Common sources of alcohol, such as kegs are not permitted.

**4.2.6.4** No activities or promotions shall encourage excessive and/or rapid consumption of alcoholic beverages. This includes contests, drinking games, and discounts or special pricing of alcoholic beverages. The use of alcohol at any such events is expected to be lawful and responsible.

**4.2.6.5** Alcoholic beverages (such as kegs or cases of beer) may not be used as awards or prizes in connection with events or activities.

**4.2.7 Advertising Related to Alcohol** Alcohol promotional activities including advertising shall not be associated with otherwise existing campus events, programs, or campus organizational functions on or off-campus. This includes, but is not limited to, such items as: cups, t-shirts, beverage can coolers, and any other items

carrying alcohol/beer advertising. Advertising of establishments that sell alcohol may appear and must adhere to the following guidelines:

**4.2.7.1** Advertising of establishments that sell alcohol shall not include brand names, logos, prices, visual images or verbal phrases that refer to consumption of alcoholic beverages. Advertising of establishments that sell alcohol shall not encourage any form of alcohol abuse nor shall it promote alcohol specials such as two for one's, happy hour drink specials, or any ads that encourage rapid and extensive consumption of alcohol.

**4.2.7.2** Advertising of establishments that sell alcohol shall not portray drinking as a solution to personal or academic problems or as necessary to social, sexual, or academic success.

**4.2.7.3** Advertising of establishments that sell alcohol shall not associate consumption of alcoholic beverages with the performance of tasks that require skilled reactions such as the operation of motor vehicles or athletic performance.

**4.2.7.4** Advertising of establishments that sell alcohol shall include a statement of low-risk such as "know when to say when" or "please use our products legally and in a responsible manner."

For additional policy details, consult Section 155, the Alcohol and Other Drugs Unlawful Use by Students, Faculty and Staff, the Event Risk Management guidelines and the Greek Life Initiatives and Action Plan (policies are available in the Student Activities Office, Memorial Union 360, and online at [www.ndsu.edu/memorial\\_union/saoindex.php](http://www.ndsu.edu/memorial_union/saoindex.php)).

**4.2.8 Exceptions to Alcohol/Drug Use** Full or empty alcohol containers and/or drugs may be used in educational programs with educational purposes when officially requested by and conducted under the direction of University administrators with prior approval from the President or the President's designee. Exceptions may be made as expressly permitted by law or as required for scientific research or teaching under the direction of faculty supervision. Programs that serve as fundraisers or at which admission is

charged will not be eligible for exceptions to the alcohol policies.

**4.2.9 Drugs Other Than Alcohol** may include, but are not limited to, marijuana, hashish, hash oil, cocaine, crack, LSD, inhalants, stimulants, depressants, hallucinogens, narcotics, designer drugs, anabolic steroids, and other substances that alter one's mental state.

**4.2.9.1 Possession, consumption, under the influence of drugs other than alcohol** is prohibited except pursuant to a physician's or dentist's prescriptions.

**4.2.9.2 Transport, manufacture, exchange, distribution, purchase, sale of illegal drugs** or any other controlled substances is prohibited except pursuant to a physician's or dentist's prescriptions.

**4.2.10 Possession of Drug Paraphernalia** for illegal drug use on NDSU owned or controlled property or at NDSU sponsored or supervised events is prohibited.

**4.2.11 Off Campus Alcohol and/or Other Drugs** Students may face campus charges for alcohol and/or drug-related behaviors occurring off-campus. Such reports generally come to the University in the form of Summons to Court and/or police reports for Loud Party, Noisy Party/Gathering, Minor in Possession/Minor Consuming/Minor Under the Influence of Alcohol, Failure to Disperse (from a loud party), Consuming Alcohol in Public, Driving Under the Influence of Alcohol or Other Drugs, or other similar violations of law. Covered in this section are any other alcohol and/or other drug violations of law reported to NDSU by any law enforcement agencies.

**4.2.12 Loud Parties/Public Disturbances** Students may face campus charges for participation in or hosting of loud or noisy parties or other public disturbances on or off-campus. Loud parties consist of three or more individuals whose behaviors lead to noise complaints.

**4.2.13 Smoking** is prohibited inside all facilities at North Dakota State University. This includes residence halls, common areas, and student

rooms. Smoking is permitted outdoors, unless otherwise noted.

**4.3 Animals** are prohibited in campus buildings. Service animals that assist persons with disabilities are permissible. The ADA defines a service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. Questions may be directed to the Facilities Management Director, Thorson Maintenance Center.

Service animals should not be left unattended, must be on a leash, and must be under the control of the owners or their designees at all times. Owners are responsible for any health or safety issues that may arise concerning the presence of these animals on University properties and at NDSU sponsored or supervised events.

Please contact the Department of Residence Life to request permission to have service animals in the residence halls or campus apartments. For all other buildings, contact the Facilities Management Director.

**4.4 Attempts** to commit acts prohibited by the standards of this Code of Student Behavior may be sanctioned to the same extent as if one had committed the prohibited acts.

**4.5 Complicity in Prohibited Acts** Knowingly, recklessly, or willfully encouraging or assisting others to commit such acts are prohibited by this Code and may be sanctioned to the same extent as if one had committed the prohibited act. Students living in residence halls, University Apartments, or Greek houses and any event sponsors are accountable for the behavior of their guests and may be sanctioned under this provision as if they had committed the violations themselves.

When in the presence of a potential Code violation, students are expected to do one or more of the following: a) personally confront and stop the violation, except in cases of violence; b) bring the violation to the awareness of a staff member; c) leave the scene of the violation, if not responsible for the space in which the violation is occurring.

#### **4.6 Bad Debts/Financial Responsibility**

**4.6.1 Payment** All students must pay in full any debts to NDSU, including but not limited to tuition/fees, room and board charges, long distance telephone bills, and library fines. Any failure to meet these obligations may result in a denial of registration or graduation privileges, denial of occupancy and/or continued occupancy of any University Residence Life accommodation, or a refusal to forward an official transcript, unless the student has filed for bankruptcy or the debt has been discharged under the federal bankruptcy laws.

For the complete text of the NDSU Collection Policy, please consult the Business Office staff or [www.ndsu.edu/policy/513.htm](http://www.ndsu.edu/policy/513.htm).

**4.6.2 Financial Aid Misuse/Abuse** Misusing financial aid through fraud or abuse is prohibited.

**4.6.3 Student Organization/Individual Debt** NDSU bears no responsibility for the financial obligations of individual students or student organizations. Any debts incurred, either on or off campus, by students or student groups will be the responsibility of the organization and its leadership. In the event an organization dissolves and is no longer in existence, the individuals holding leadership positions at the time the debt was incurred will maintain responsibility for settling outstanding debts.

**4.6.4 Creditors** NDSU will normally take no action on behalf of creditors in the case of debts incurred off campus by students, student organizations, or other student groups. NDSU officials will not use the power of the state to act as a collection agency for the private debts of students.

**4.7 On-Campus Living Requirement for Students Under 19 Years of Age** All students under 19 years of age on the first day of the fall or spring semesters are required to live on campus. Exceptions may be granted for students who will be living with their immediate family or relatives. A "Request for an Exemption from the On-Campus Living Requirement" form should be submitted at least two weeks prior to the start of the semester to the Department of Residence Life.

This form is available on line at [www.ndsu.edu/reslife/resinfo/live\\_in\\_req.php](http://www.ndsu.edu/reslife/resinfo/live_in_req.php).

Exceptions, according to the guidelines available in the Department of Residence Life or the Student Activities Office, Memorial Union, may also be granted for second-semester students wishing to live in a fraternity or sorority house.

#### **4.8 Computer Related Inappropriate Behavior**

(NDSU Policy Manual Section 158: Acceptable Use of Electronic Communications Devices: [www.ndsu.edu/policy/158.htm](http://www.ndsu.edu/policy/158.htm) and the State Board of Higher Education (SBHE) Policy Manual Section 1901.2, Computing Facilities: [www.ndus.edu/policies/ndus-policies/subpolicy.asp?ref=2551](http://www.ndus.edu/policies/ndus-policies/subpolicy.asp?ref=2551)). If additional questions remain, contact the Information Technology Services Help Desk in IACC for additional guidance.

The following are common violations found in the two policies noted above. For a complete listing, please view both of the documents above.

**4.8.1** Unauthorized use, sharing, lending or borrowing of an account is prohibited.

**4.8.2** Using the computer services or facilities for purposes other than those for which the account was issued is prohibited.

**4.8.3** Using University network resources and services to play or store game programs, except when authorized in writing by the Information Technology Security Officer, is prohibited.

**4.8.4** Using the University's computer systems for commercial purposes without written authorization of the Information Technology Security Officer is prohibited.

**4.8.5** Copying, altering, or destroying the files or output of another individual without the express permission of that individual is prohibited.

**4.8.6** Altering system software or hardware configurations, or disrupting or interfering with the delivery or administration of computer resources is prohibited.

**4.8.7** Misrepresenting oneself as another individual or entity in electronic communication is prohibited.

**4.8.8 Intellectual Property Infringement (Copyrighted Materials)** When reproducing or distributing information, users are responsible for the observation of copyright rights and other intellectual property rights of others and all state and federal laws, institutional, and North Dakota University System (NDUS) policies. Generally, materials owned by others cannot be used without the owner's permission. Written consent from the copyright owner is normally necessary to reproduce or distribute copyrighted material. There are some exceptions such as fair use in teaching and in research.

Documentation of consent to use copyrighted materials must be kept on record and made available to institution officials upon request. The NDUS assumes no obligation to monitor users for infringing activities, but will, when such activities are called to the appropriate official's attention, investigate to determine if there is likely infringement and take appropriate action.

Users should also be careful of the unauthorized use trademarks. Trademarks are words, names or symbols which serve as source identifiers of a company's or institution's products. Certain uses of such marks online, in websites, or in domain names can constitute trademark infringement. Unauthorized use of an institution's name in these situations can also constitute trademark infringement. (See also 4.16.2)

**4.8.9** Abusing or misusing the computer facilities so as to cause damage, program disturbances, or harassment to other persons is prohibited.

**4.8.10** Entering obscene or offensive material into computers or sending obscene or offensive material through the Internet or any other electronic system is prohibited.

**4.8.11** Any other violation of the campus or North Dakota University System policies governing electronic communications as referenced above is prohibited.

## **4.9 Deception/Falsification/ Misrepresentation**

**4.9.1** Withholding or providing false information for the purpose of gaining benefit for oneself or others to any office, agency, or individual acting on behalf of the University is prohibited.

**4.9.2** Representing a University entity falsely and/or committing or using the resources of any University entity without proper authorization is prohibited.

**4.9.3 Dishonest behavior** is prohibited and includes, but is not limited to, falsely accusing another individual of inappropriate behavior; possessing, manufacturing, using, or furnishing false identification; and forgery, alteration, misuse, or unauthorized destruction of any University document, record, or identification. Such documents include, but are not limited to, student identification cards, parking permits, transcripts, charge slips, receipts, grade reports, and the like.

**4.9.4 False Accusations** Knowingly, intentionally, or recklessly making false accusations of inappropriate behavior under this Code against another individual; providing false information or falsified evidence with the intent of harming another student; or attempting to intimidate witnesses and/or altering or destroying evidence necessary to conflict resolution pending with the University is prohibited.

**4.9.5** Failing to keep the Office of Registration and Records (Room 110 Ceres Hall) notified of current local, permanent, and e-mail addresses, or providing a false or fictitious address(es), is prohibited.

## **4.10 Disruption of University Business**

**4.10.1** Disruption or obstruction of teaching, research, administration, public service functions, meetings of University committees or boards, or of any other authorized University activity or organization on or off University premises (including but not limited to classes; social, cultural, and athletic events; computing services; registration; Residence Life and Dining Services; governance meetings; and conflict resolution hearings), such that the function or service is

materially or substantially disrupted or obstructed is prohibited.

**4.10.2** Obstruction of ingress or egress to any University facility, or intentional obstruction which unreasonably interferes with freedom of movement, both pedestrian and vehicular, on campus is prohibited.

**4.10.3** Unauthorized entry upon the performance area or the spectator areas of any University event, including but not limited to athletic contests, exhibitions, musical or theatrical events, or any other events is prohibited.

**4.11 Gambling/Raffles** Illegal gambling at any time and in any form is prohibited. Internet gambling is illegal in North Dakota. Individuals may not gamble on University athletics. (Raffles or lotteries require a permit from the City of Fargo. Permit applications may be obtained from the City Auditor's Office or the Student Activities Office in the Memorial Union.)

**4.12 Failure to Comply** with the instructions or directions of University officials in the performance of their duties is prohibited. Such acts may include but are not limited to intentionally, knowingly, or recklessly obstructing or delaying any University proceedings, failing to cooperate with an investigation, fleeing a police officer, and/or failing to comply with assigned University behavior sanctions. Verbal and/or physical abuse directed toward any University official will not be tolerated and shall constitute a violation of this Code.

**4.13 Identification** Failure to produce either a University identification card or a driver's license upon request by any University official, including but not limited to, NDSU Police Officers, Hall Directors, Residence Life staff and Memorial Union staff in the performance of their duties is prohibited.

**4.14 Bribery** The offering, giving, receiving, or soliciting of anything of value to influence the official decision or action of a University employee or official, or a person in a position of trust or influence, is prohibited.

**4.15 Failure to Appear** Willfully, knowingly, or recklessly failing to appear before a University official or the Code of Student Behavior Complaint Resolution Board when notified to appear shall constitute a violation of this code.

#### **4.16 Misuse of Proprietary Information**

**4.16.1** Unauthorized use of information or misuse of information, in whatever form, proprietary to the University or a University official, employee, or student is prohibited. "Proprietary" means property in which the University or its employee(s) and/or student(s) have a legal interest.

**4.16.2 Copyright infringement.** Reproduction of any copyrighted materials without authorization is prohibited. See 4.8.8 for additional clarification.

#### **4.17 Personal Inappropriate Behavior Not on University Property**

**4.17.1 General Information** The University may discipline a student for acts of personal inappropriate behavior committed outside of University property:

- a) if the acts occur during the course of or in conjunction with University activities that are being conducted off the University campus; or,
- b) the acts relate to the safety and security of the University community and its members, the integrity of the educational process, or the interests of the University; or
- c) the acts relate to previous conflicts between the student and University behavioral standards.

For example, the University routinely processes all police reports provided to the University when the subject of such reports involves the illegal or abusive use of alcohol and/or other drugs, loud/noisy party disturbances, violence, or other serious crimes. When law enforcement agencies report such activities to NDSU that involve students, the University may pursue charges under this Code against all NDSU students identified on such reports.

Other off-campus behaviors addressed may include, but are not limited to, the following: altering academic transcripts; assault; arson; battery; drug trafficking; forgery; fraud; harassment of student(s) as defined in this Code;

hazing; rape; sexual assault; trafficking in term papers; unauthorized use of a computer off campus to obtain access to information on campus; possession or consumption of an alcoholic beverage by any student who has not reached 21 years of age; furnishing false identification or otherwise making a false representation about one's age for the purpose of buying, receiving, or otherwise obtaining alcoholic beverages; and selling, giving away, or otherwise distributing an alcoholic beverage to any student who has not reached 21 years of age.

**4.17.2 Tri-College Policies** NDSU students who are charged with a violation of institutional policy at Concordia College or Minnesota State University-Moorhead will be referred to NDSU and may be subject to action under this Code.

#### **4.18 Property Violations**

**4.18.1** Property violations are prohibited and include, but are not limited to, behaviors that would commonly constitute criminal violations such as burglary, robbery, theft, trespassing, or vandalism.

**4.18.2** Theft or removal of University property and/or furnishings, including but not limited to, furniture, artwork, plants, electronics, window screens, and signs from their designated locations is prohibited.

**4.18.3 Theft of Services** Using University services to which one is not entitled constitutes Theft of Services and is prohibited. Examples include, but are not limited to, using campus laundry services intended only for campus residents, using parking services not purchased, using parking lots other than those assigned by campus personnel, or using University printing services.

**4.19 Sales** Unauthorized sales or solicitations at any time in the residence halls, University apartments, or in any other campus buildings are prohibited. For questions regarding sales in the Memorial Union, please see the Memorial Union Director. For questions regarding sales in Residence Life facilities, please see the Associate Director of Residence Life. For questions concerning sales in any other areas, please begin

the inquiry at the Dean of Student Life Office, Memorial Union

#### **4.20 Telephone & Related Equipment Abuse**

**4.20.1** Intentionally making telephone call(s) to or from the University for the purpose of abusing, threatening, annoying, or harassing another person is prohibited.

**4.20.2** Charging or causing to be charged, any long distance or other toll telephone calls to University telephone accounts and/or Bison Lines accounts without proper authorization is prohibited.

**4.20.3** Damage or destruction to the University's telephone system and any of its telephone instruments or equipment is prohibited.

**4.20.4** Using or abusing telephone equipment, lines, or accounts belonging to the University or to University employees, students, and/or faculty without authorization, or for purposes other than those originally granted authorization, is prohibited.

**4.21 Traffic Safety** University traffic and parking regulations are approved by the University Senate upon recommendation of the Campus Space and Facilities Committee. The complete current rules are published in a separate pamphlet entitled "NDSU Traffic Regulations" which may be obtained from NDSU Police, Thorson Maintenance Center. Some of those regulations are listed here:

**4.21.1** Falsifying registration information, reproducing, defacing, forging, altering, obscuring, transferring or retaining and using a found permit is prohibited. Reselling of permits is permitted only by NDSU and stolen parking permits may be processed under this code in place of or in addition to the filing of criminal charges for theft of services.

**4.21.2** Parking on the NDSU campus without the required permit as well as the common offenses of parking in designated 'no parking' zones, over parking in time zones, parking in fire lanes, etc., is prohibited. Curb parking is prohibited unless the space has been specifically designated as a time

parking zone. Parking personal vehicles in agricultural plot areas is prohibited.

**4.21.3** Improper operation of motor vehicles on campus, including but not limited to driving on sidewalks, grass, etc., is prohibited.

**4.21.4** Failure to cooperate with the lawful direction of traffic enforcement personnel in the performance of their duties is prohibited.

**4.21.5** Failure to report an accident that occurs on the NDSU campus, or involves an NDSU official vehicle, in the manner and time limit required by law or by University regulations, is prohibited.

**4.21.6** Failure of persons in motorized vehicles or on bicycles, skateboards, roller blades, and/or scooters to yield the right of way to pedestrians or abide by any traffic laws is prohibited.

**4.21.7** Failure to park bicycles/motorcycles in designated parking areas or to use designated parking structures is prohibited. Unless specifically provided for that purpose, attaching bicycles/motorcycles to light poles, railings, fencing, trees, or other University exterior or interior structures is forbidden.

**4.21.8** Bicycles/motorcycles may not be stored in any University building or structure unless specifically provided for by regulation. Any questions may be directed to the Facilities Management Director.

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

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

rooms, and construction sites. The use of fire escapes is strictly limited to emergency purposes.

**4.22.2** The reproduction, duplication, manufacture, or possession of any key or unlocking device for use on University facilities, locks, or other property on University premises without proper authorization is prohibited.

**4.22.3** Use of any University facility, equipment, or materials except for their authorized purposes including but not limited to the telephone, the mail, and the computer systems is prohibited. No University facilities, equipment, materials, or services may be used to commit any illegal act.

**4.22.4** University computing clusters are provided for the use of currently enrolled NDSU students and currently employed NDSU faculty and staff members. Use by all others is prohibited.

**4.22.5** Procuring, altering, damaging, removing, manufacturing, or using any University key card, lock, password, or other security device without proper authorization is prohibited.

**4.22.6** Refusal to vacate a University facility when directed to do so by an authorized official of the University is prohibited.

## **5. Respect for the Protection and Rights of Others**

The purpose of this section is to communicate the value that the University places on respect for the protection and rights of others. The following behaviors are of concern when they involve incidents that occur on the University premises, in association with any activities sponsored or supervised by the University on or off campus, or any incidents that inhibit the educational process.

**5.1 Physical Abuse** is prohibited and includes the use of physical force, violence, or intoxicants or other substances to restrict the freedom of action or movement of another person or to endanger the health or safety of another person.

**5.2 Physical Behavior** that involves an expressed or implied threat to interfere or that has the purpose or reasonably foreseeable effect of interfering with an individual's personal safety, safety of property, academic efforts, employment,



or participation in University sponsored activities and causes the person to have a reasonable apprehension that such harm is about to occur is prohibited.

**5.3 Assault** is prohibited and is an unlawful physical touching by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

**5.4 Aggravated Assault** is prohibited and is an unlawful touching by one person upon another wherein the offender uses a form of weapon or displays it in a threatening manner, or the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

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

**5.6 "Fighting Words"** The face-to-face use of "fighting words" is prohibited. Fighting words are personally abusive epithets that when addressed to any person are, as a matter of public knowledge, inherently likely to provoke immediate violent reaction whether or not the reaction occurs. Terms/words include but are not limited to recognized derogatory references to race, ethnicity, religion, gender, sexual orientation, disability, or other personal characteristics.

**5.7 Intimidation** Intimidating or threatening others is prohibited.

**5.8 Unauthorized Surveillance** Making unauthorized video or photographic images of a person in a location in which that person has a reasonable expectation of privacy, including, but not limited to, shower/locker rooms, residence

hall rooms, and men's or women's restrooms, is prohibited. Also prohibited is the storing, sharing, and/or other distribution of such unauthorized images by any means. In some circumstances, such behaviors may also constitute violations of local, state, or federal laws.

## **5.9 Discrimination/Sexual Harassment/ Harassment/Other Prohibited Acts**

**5.9.1 Discrimination** North Dakota State University is fully committed to equal opportunity in employment decisions and educational programs and activities, in compliance with all applicable federal and state laws and including appropriate affirmative action efforts, for all individuals without regard to race, color, national origin, religion, sex (gender), disability, age, Vietnam Era Veterans status, sexual orientation, status with regard to marriage or public assistance, or participation in lawful activity off the employer's premises during non-working hours which is not in direct conflict with the essential business-related interests of the employer (see NDSU Policy 100 [www.ndsu.edu/policy/100.htm](http://www.ndsu.edu/policy/100.htm)).

**5.9.2 Sexual Harassment** (NDSU Policy 162 [www.ndsu.edu/policy/162.htm](http://www.ndsu.edu/policy/162.htm)) As part of its commitment to equal opportunity, North Dakota State University prohibits sexual harassment of its employees and students, including student-to-student and other peer sexual harassment.

This policy is in compliance with federal regulations implementing Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. Sexual harassment is defined as:

"Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when

(a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic achievement,

(b) submission to or rejection of such conduct by an individual is used as the basis for employment

decisions or academic decisions affecting such individual, or

(c) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment.

Please note that sexual harassment in electronic forms is also prohibited under NDSU Policy 710 - Computer Facilities ([www.ndsu.edu/policy/710.htm](http://www.ndsu.edu/policy/710.htm)).

Individuals concerned about violations of this policy should request assistance from the University's Director of Equity and Diversity, the University's General Counsel, the Counseling Center – Disability Services Office, the Associate Director of Student Rights and Responsibilities, or an appropriate administrator. When administrators or supervisors become aware of occurrences of sexual harassment in their areas, they are responsible for stopping the behavior or reporting it to the Director of Equity and Diversity. In addition, the University's equal opportunity grievance procedure shall be available for any person who wishes to file a complaint alleging a violation of this policy.

Please see related NDSU Policy 162.1, "Consensual Relationships", ([www.ndsu.edu/policy/1621.htm](http://www.ndsu.edu/policy/1621.htm)). A copy of this policy may be requested from the Dean of Student Life Office, Memorial Union.

**5.9.3 Harassment** North Dakota State University is committed to providing a climate which fosters respect for students, staff and faculty as well as others who participate in programs and activities at the University. As part of that commitment, NDSU prohibits harassment based on gender, race, color, religion, national origin, age, disability, sexual orientation, or protected activity (such as reporting alleged harassment or providing information related to a grievance). This policy is in compliance with federal civil rights laws and agency regulations and guidance implementing these laws.

Harassment (based on an individual's membership in one or more of the groups identified above) is defined, for purposes of this policy, as

unwelcome verbal or physical behavior which has the intent or effect of unreasonably interfering with the individual's employment or academic endeavors or creating a hostile, intimidating or offensive environment. Harassment may include (but is not limited to) jokes, derogatory comments, pictures, and/or direct physical advances.

Please note that harassment in electronic forms is also prohibited under NDSU Policy 710, Computer Facilities ([www.ndsu.edu/policy/710.htm](http://www.ndsu.edu/policy/710.htm)).

**5.9.4 Other Prohibited Acts** Any harassing, discriminating, and/or intentional acts or any series of these actions that interfere with individuals' academic efforts, employment, personal safety, or participation in University sponsored extracurricular activities are prohibited.

**5.10 Disorderly Conduct** is prohibited. Such conduct is behavior that intentionally causes or recklessly creates a risk of public inconvenience, annoyance, or alarm without proper authority. This includes, but is not limited to, fighting, engaging in violent behavior, making unreasonable noise, obstructing vehicular or pedestrian traffic, disturbing a lawful assembly, streaking.

**5.11 Lewd, Indecent or Obscene Behavior** that flagrantly flaunts community standards with respect to sexuality is prohibited.

**5.12 Endangerment of Individuals or the Safety of Individuals**

**5.12.1** Initiating or circulating a report or warning concerning an impending bombing, a fire, or other emergency or catastrophe knowing that the report is false; or knowingly transmitting such a false report to an official or an official agency is prohibited.

**5.12.2** Willful failure to comply with orders issued by any University personnel under emergency procedures or directives during a tornado, fire, fire drill, bomb threat, or any other real or perceived emergency condition is prohibited.

**5.12.3** Tampering with any fire protection sign or device or any other emergency equipment (including but not limited to fire extinguishers, fire hoses, smoke/heat detectors, sprinkler systems, and other alarm systems), for reasons other than an actual emergency, except when done with the reasonable belief that such an emergency exists, is prohibited.

**5.12.4** Tampering with elevator controls, elevator shaft access, and/or other elevator equipment by such acts including but not limited to jumping, elevator surfing, falsely sounding alarms, and stopping between floors is prohibited.

**5.12.5** Willful failure to follow safety standards is prohibited.

**5.12.6** Unlawfully, recklessly, willfully, or negligently damaging or attempting to damage, property or structures on NDSU owned or controlled property is prohibited.

**5.12.7** Creating a risk of bodily harm, or falsely creating the impression of risk of bodily harm, to any NDSU faculty, staff, students, or guests is prohibited.

**5.12.8 Sporting Activity Restrictions** Due to safety and facility concerns, the riding of skateboards or scooters and the use of in-line skates, roller skates, and bicycles is prohibited inside all University facilities. Engaging in sporting activity; the use of water guns, water balloons, and water balloon launchers; and the throwing of flying discs (Frisbees™), balls, or other objects are also prohibited, except when authorized.

**5.13 Firearms/Explosives/Other Weapons.** Unauthorized possession, display, or use of weapons on University owned or controlled property, including in personal vehicles, is prohibited, unless permission for possession and/or use has been granted by an appropriate University official. Weapons include but are not limited to BB guns, bombs, bows and arrows, dart guns, explosives, handguns, martial arts implements, paint ball guns, pellet guns, rifles, sabers, shotguns, swords, tasers, and other incendiary devices, whether purchased or manufactured.

Other prohibited items include daggers, dangerous chemicals or fuels, fireworks, and knives. Other items may be considered weapons when those items are used to inflict bodily injury or to threaten the infliction of bodily injury on others.

For authorization, please contact the Dean of Student Life Office for referral to the appropriate University official. (This policy shall not prohibit persons from possessing, storing, or using weapons at approved locations for the purpose of meeting the requirements of a recognized educational program and/or student group recognized by the University.)

**5.14 Hazing** is a broad term encompassing any action or activity that inflicts or intends to cause physical or mental harm or anxieties; that may demean, degrade, or disgrace any person, regardless of location, intent, or consent of participants. Hazing can also be defined as any action or situation, on or off campus premises, that intentionally or unintentionally endangers a student for admission into or affiliation with a student organization or group. Such activities and situations include, but are not limited to, paddling in any form; creating excessive fatigue; forced consumption of any substance; forced road trips; morally degrading, demeaning, unsanitary, humiliating games, or stunts; and harassment, ridicule, or other activities prohibited by law or University policy.

**5.14.1** Hazing in any form is prohibited by NDSU and state law. It is the responsibility of the organization and its leadership in conjunction with the (inter)national organization, where appropriate, to protect its new members, associate members, members, or other persons associated with the organization from any hazing ceremony, activity, or practice conducted, condoned, or encouraged by the current members of the organization, alumni(ae), or other associates.

**5.14.2** The University or prospective group members may file a complaint of hazing against all parties as individuals and/or against the group or organization. In addition, individuals and/or groups may also be subject to criminal and/or civil liability outside the jurisdiction of the University.

## **5.15 Sexual Offenses, Including Rape**

**5.15.1 Sexual offenses** Sexual offenses are prohibited and involve a much broader range of acts than the traditional concept of rape. Sexual offenses include rape, acquaintance or date rape, sexual imposition, sexual assault, and nonconsensual fondling or groping. Also prohibited are any sexual acts or contacts with others that involve:

- (a) compelling a person to submit to sexual acts or contacts by force or threat of force,
- (b) using intoxicants to substantially impair the person's power to give consent,
- (c) engaging in such acts when there is reasonable cause to believe the other person suffers from a mental state which renders him or her incapable of understanding the nature of the contact, or
- (d) when the individual is a minor.

**5.15.2 Non-contact sexual offenses** Peeping or other forms of intrusion are prohibited.

**5.15.3 Under the Influence of Alcohol and/or Other Drugs** The use or abuse of alcohol and/or other substances does not relieve individuals of their responsibilities to themselves or others. Being under the influence of alcohol and/or other substances is not a defense for an individual charged under this Code. Furthermore, the University encourages individuals to report sexual offenses even though they may have voluntarily been under the influence of alcohol and/or other substances at the time.

**5.16 Stalking.** No person may intentionally stalk another. As used in this Code, "Stalk" means to engage in an intentional course of behavior directed at a specific person that frightens, intimidates, or harasses that person, and that serves no legitimate purpose. The course of behavior, involving two or more acts, may be directed toward that person or a member of that person's immediate family. Stalking generally causes a reasonable person to experience fear, intimidation, harassment, or to be the object of unwanted attention. Stalking behaviors may include, but are not limited to:

- (a) approaching, following, loitering, pursuing, or restraining behaviors;
- (b) repeated unwanted electronic communications such as e-mail, telephone calls, and text messages;

- (c) sending unwanted gifts;
- (d) trespassing; and
- (e) vandalism.

**5.16.1** "Immediate family" means a spouse, parent, child, or sibling. The term also includes any other individuals who regularly reside in the household or who within the prior six months resided in the household.

**5.16.2** In any proceeding under this section, it is not a defense that no actual notice was given that the person did not want to be contacted or followed; nor is it a defense that there was no intention to frighten, intimidate, or harass the person. An attempt to contact or follow a person after being given actual notice that the person does not want to be contacted or followed is evidence of intention to stalk that person.

### **5.16.3 Exceptions**

**5.16.3.1** Excluded are constitutionally protected behaviors. If a person claims to have been engaged in a constitutionally protected activity, the hearing officer or body shall determine the validity of the claim and, if found valid, shall exclude evidence of the activity.

**5.16.3.2** In any proceeding under this Code, it is a defense that a licensed private investigator or a peace officer licensed under law was acting within his/her scope of employment

## **5.17 On-Campus Housing Safety and Security**

**Efforts** Due to the nature of on-campus living, environment, safety and security standards have been established. All students will be held accountable for their behaviors in the residence halls and University apartments. Off-campus students will be referred to the Associate Director of Student Rights and Responsibilities for action. All students and their guests need to cooperate with efforts to establish a secure campus by complying with policies and cooperating with Residence Life staff.

**5.17.1 Access** Entrance doors for the residence hall and University apartment buildings are locked 24 hours a day. Guests must meet their resident-host at an entrance door to gain entry into the building. Non-residents must be escorted by a resident at all times when in the residence halls.

Students are not allowed to prop open doors or allow unauthorized persons into on-campus housing facilities.

**5.17.2 Keys** Students are not permitted to duplicate keys/cards issued by Residence Life. Students are also not allowed to loan keys/cards to other individuals. Students are expected to be responsible for their keys/cards and the security of their rooms. Students who repeatedly find themselves locked out of their rooms are subject to sanctions under this Code.

**5.17.3 Guests and Visitation** Visiting hours for guests will be posted in all buildings. Residents are responsible for knowing the identity of their guests and are responsible for guest behaviors. Residents are held liable for loss or damages to property caused by their guests.

**5.17.4 Overnight Residence Hall Guests** Guests of the same sex are permitted to stay overnight in the residence halls with approval from Residence Life staff. Residents must register their overnight guests before 2:00 A.M. Guests may not stay for more than three consecutive nights.

**5.17.5 Quiet Hours/Noise** Residents and guests must respect quiet hours in each of the on-campus housing facilities. Specific quiet hours are posted in each hall and apartment building. Courtesy hours are in effect 24 hours a day to allow students to pursue their academic studies and promote a comfortable living environment.

**5.17.6 Candles and Incense** Candles and incense are not allowed in on-campus housing facilities. Also prohibited are any open flames.

## **6. Respect for Community and Protection of the Rights of Others by Student Organizations and Affiliated University Groups**

The purpose of this section is to communicate the importance of conducting organizational business and activities in a manner that does not negatively affect the educational mission of the University; adversely affect the welfare of others; or infringe upon the rights of others. Student organizations are recognized by the Student Government

Commission for Student Organizations and are independent of NDSU. Because of their relationship with the University, student organizations are expected to uphold and comply with University policies and the Code of Student Behavior.

### **6.1 Responsibilities of Student Organizations and Affiliated University Groups**

**6.1.1** A student organization or a group affiliated with the University shall be deemed responsible for acts of inappropriate behavior committed by individuals where such acts:

- (a) are mandated, sponsored, approved, or encouraged by the group or organization, whether explicitly or implicitly; and/or
- (b) take place in the context of a tradition, custom, or past practice of the group or organization; and/or
- (c) are reasonably foreseeable as a result of an activity carried on by the student organization or affiliated University group.

**6.1.2** Students residing in properties owned by organizations or groups affiliated with the University will be held responsible for their behavior, the behaviors of their guests, and for controlling access to their premises.

### **6.1.3 Crisis Management (Good Samaritan Policy)**

**6.1.3.1** A host organization has a responsibility to ensure the well being of its guests where ever its events occur. If a guest needs emergency medical attention, the host organization is required to call an ambulance or other appropriate emergency response personnel (ambulance, police, fire, etc.) to gain that assistance. If the host organization fails to carry out this responsibility, the organization may be subject to severe University sanctions and may potentially be subject to additional civil and/or criminal liability.

**6.1.3.2** If an organization acts properly and seeks medical attention or police assistance, this will be noted and brought forth prior to the sanctioning phase of any hearing that is related to the event in which the medical emergency arose.

## **6.2 Conflicts by Student Organizations and Affiliated University Groups**

Behavior that conflicts with regulations established by the University for student organizations and/or affiliated groups is prohibited. Such behaviors include but are not limited to misappropriation of funds; misuse of property; improper registration or misrepresentation of an organization or group; abuse of student election regulations; or failure to abide by University policies, procedures, and regulations.

## **6.3 Conflict Resolution and Enforcement Procedures for Conflicts by Student Organizations and Affiliated University Groups**

**6.3.1** When a student organization or an affiliated University group is charged with inappropriate behavior, the presiding officer or individuals affiliated with the group shall be required to participate in proceedings conducted under this Code as representatives of the group. In some cases organizational officers or members may also be charged with individual violations related to the original incident involving the organization.

**6.3.2** For information concerning the conflict resolution pathway(s) to be utilized, please refer to Section 14, Complaint Resolution Board Procedures.

**6.3.3** Because behavioral records of student organizations are not protected by the Family Educational Rights and Privacy Act (FERPA), complainants are entitled to learn the results of behavioral actions taken against student organizations so long as those disclosures do not compromise the privacy of any individual student's education record. In such situations, individual names may have to be removed.

## **7. Student Organizations/Fraternities & Sororities/Activities**

Recognition requirements and procedures (For guidance, consult with staff in the Memorial Union Student Activities Office):

### **7.1 Membership**

**7.1.1 Membership in student organizations with NDSU recognition** Membership must be

limited to current students, faculty, and staff of North Dakota State University. Students who transfer to another Tri-College institution who wish to retain membership in an NDSU registered student organization may be eligible for on-going membership, contingent upon approval from the Dean of Student Life or the Dean's designee.

### **7.1.2 Membership in student organizations with Tri-College/Dual-College recognition**

Organizations wishing to recruit and maintain membership of students from other Tri-College institutions must obtain Tri-College or Dual-College recognition. Membership in Tri-College organizations is open to full-time or part-time currently enrolled NDSU and Minnesota State University-Moorhead students, full-time Concordia College students, and faculty/staff from Concordia College, Minnesota State University-Moorhead, or NDSU. Membership in Dual-College organizations must be consistent with membership guidelines at the respective institutions. [See Tri-College/ Dual-College Organization Recognition Guidelines and Procedures.

([www.ndsu.edu/memorial\\_union/thundarbolls/](http://www.ndsu.edu/memorial_union/thundarbolls/))]

### **7.1.3 Membership in social fraternities and sororities**

Social fraternities and sororities are chartered with a single institution and therefore are ineligible for Tri-College/Dual-College recognition; membership is limited to students enrolled at NDSU.

**7.1.4 Officers** Students holding elected or appointed leadership positions in recognized student organizations must meet the academic and conduct eligibility standards identified in the Eligibility/Participation in Co-Curricular Activities.

**7.1.5 Recognition** of student organizations is granted by the Student Government Commission for Student Organizations (CSO) and registered in the Student Activities Office of Memorial Union.. Although student organizations are independent organizations from NDSU, they are expected to uphold and comply with University policies, the Code of Student Behavior, and local, state, and federal laws.

**7.1.6** Student organization purposes must be compatible with the educational purpose of the University.

**7.1.7** Students and student organizations are free to examine and to express opinions publicly and privately. They are free to support causes by orderly means that do not disrupt the regular and essential operation of the institution. At the same time, it should be made clear to the academic and to the larger community that in their public expressions or demonstrations, students or student organizations speak only for themselves.

### **7.1.8 Registration Requirements**

**7.1.8.1** The following information must be filed with the Student Activities Office.

(a) A registration form with the following:

- the name of the organization;
- a listing of officers and their signatures;
- the name and signature of an adviser, selected from the faculty or staff, or another designee as approved by the Student Activities Office staff; and
- the Tri-College/Dual-College Organization Registration Form (applies only to groups wishing to obtain or maintain Tri-College/Dual-College Recognition).

(b) A statement signed by local student organization officers giving assurance that there will be no illegal discrimination on the basis of age, race, color, disability, religion, gender, national origin, sexual orientation, or any form of discrimination in the selection of members or officers on a local level.

(c) A statement signed by local student organization officer(s) giving assurance that there will be no participation in any activities that could be considered hazing.

(d) A Request to Check Eligibility for Participation Form.

(e) A copy of the constitution. Constitutions shall be submitted for record every three years, even if no changes are made.

**7.1.8.2** Registration information must be renewed annually and a list of officers must be submitted to the Student Activities office at the time of election or appointment of officers.

**7.1.8.3** The membership, policies, and action of recognized student organizations will be

determined by group members who are enrolled as students.

### **7.1.9 Code Violations by Student Organizations and Affiliated University Groups**

**7.1.9.1** Organizations violating University rules are subject to revocation of recognition or other disciplinary action by the Student Government or Administrative Hearing Officer designated by the Dean of Student Life or the Dean's designee.

**7.1.9.2** University organizations are prohibited from engaging as a group in activities which constitute individual violations of University regulations by the members involved.

**7.1.10 National/International affiliated organizations** National/International affiliated organizations must uphold the policies and procedures of their national/international organization in addition to University policies and procedures. In the case of conflicting policies, University policies supercede those of the (inter)national organization.

### **7.2 Fraternities and Sororities**

**7.2.1 Membership** Social fraternities and sororities are chartered with a single institution and therefore are ineligible for Tri-College/Dual-College recognition; membership is limited to students enrolled at NDSU.

**7.2.2 Residents of Greek Chapter Houses** No one other than a qualified member or new member currently enrolled at NDSU, or a house employee, may reside in the house during the fall and spring semesters without authorization from the Coordinator for Greek Life and by chapter leadership.

**7.2.3 Summer rules** Fraternity and sorority presidents are to furnish the names of the summer house managers to the Coordinator for Greek Life, Memorial Union. Chapter leadership is required to inform summer residents of University and Greek Life policies.

### **7.2.4 House Director or Graduate Resident**

The University encourages fraternities and sororities that provide student rooms or food facilities to have a house director or graduate

student living in the house. He or she should be notified in advance of all social or organizational events, including open houses or visits by guests.

**7.2.5 Code violations** As is the case with all University student organizations, fraternities and sororities will be held responsible for any conflicts with University regulations occurring in Greek residences or at functions or social events sponsored by the chapter.

**7.2.6 Alcohol and other drugs** No alcoholic beverages or drugs are permitted in common areas of chapter property at any time. Members who are 21 years of age may consume alcohol in the privacy of their rooms with no more than three guests who are also 21 years of age or older. Illegal drugs are not permitted on chapter property at any time.

**7.3 On Campus and Off Campus Activities/Events** Responsibilities of officers or designees of the organization include:

**7.3.1** Reserve facilities for organization meetings and functions.

**7.3.2** Prepare and file with the Memorial Union Student Activities Office an Event Risk Management Planning Notification Form, no later than two weeks prior to an off-campus event;

**7.3.3** Take initiative to insure compliance with regulations;

**7.3.4** Seek assistance from staff in the Memorial Union Student Activities Office, as necessary;

**7.3.5** Communicate policies to the organization's membership;

**7.3.6** Encourage the organizational adviser(s) to be present; and

**7.3.7** Take responsibility for group functions.

**7.3.8** Refer to section 4.2.6 for off campus events at which alcohol may be available.

The University encourages NDSU Residence Life groups, student organizations, and other

University affiliated groups to invite faculty guests to activities and events.

## **8. Commercial Solicitations & Distribution Issues**

### **8.1 Commercial and Fundraising Activities**

[See NDSU Policy 150  
[www.ndsu.edu/policy/150.htm](http://www.ndsu.edu/policy/150.htm)]

**8.1.1 Recognized student organizations** must register fundraising activities with the Associate Director of Memorial Union/Student Activities at least two (2) weeks prior to advertising or initiating fundraising efforts.

Activities or items associated with fundraisers must be consistent with University policies.

Student organizations may use University facilities for sponsoring events at which an admission is charged or donations are solicited, provided that the group has worked with appropriate departments in reserving facilities and coordinating activities. Facility rental fees may be assessed for events at which admission is charged.

**8.1.2 Organizations Not Affiliated with NDSU and Individuals** (regardless of affiliation with NDSU) may not advertise, sell, conduct a business, or raise funds on campus or in a University residence without first registering and receiving written permission from the following:

**In all University apartments**, from the Assistant Director for University Apartments and Residence Services. Commercial activities in public areas of University Apartments will not be allowed.

**In residence halls**, from the Associate Director of Residence Life. Commercial activities in public areas of residence halls will not be allowed.

**In fraternity or sorority houses**, from the president of the individual fraternity or sorority; permission will be limited to allowing commercial activities in public areas—not including rooms or corridors.

**In the Memorial Union**, from the Memorial Union Director or the Director's designee. Approval requires a confirmed reservation of space in the Memorial Union. Rental fees (if



applicable) will be assessed for space utilized for these purposes.

**In the Wellness Center**, from the Wellness Center Director or the Director's designee.

**In All Other Areas**, please consult the Dean of Student Life Office for referral to the appropriate University official.

**8.1.3 Parking Areas** (Leaflets) Placing flyers or other leaflets on vehicles on the NDSU campus, including those in NDSU parking lots, is prohibited. Information left on vehicles will be removed and destroyed. If litter results from such activities, the sponsoring individual/group may be required to pick up discarded flyers or may be billed by the University for providing that service.

**8.1.4 Raffles or Lotteries** require a permit from the City of Fargo. Permit applications may be obtained from the City Auditor's Office or the Memorial Union Student Activities Office.

## **8.2 Solicitations/Distribution of Literature**

**8.2.1** All individuals or organizations responsible for distribution of literature on campus must be identified on the literature.

**8.2.2** All individuals or organizations distributing literature will be responsible for cleaning up all litter resulting from its distribution. Clean-up costs will be assessed to any such person or group which does not clean up all such litter within a reasonable time.

**8.2.3** Distribution by means involving shouting, pursuing, hawking, or accosting individuals is prohibited, as is any interference with normal University functions or interruption of the free flow of traffic, inside or outside any building.

**8.2.4** Commercial literature may not be sold or distributed on campus unless the rules governing advertising in the section "Commercial and Fund-Raising Activities" have been followed. See Section 8.1.

**8.2.5** Any person or groups of persons wishing to distribute literature to the public in the Memorial Union may use the following methods:

**8.2.5.1** Literature racks located near the Service Center on the Main Level;

**8.2.5.2** Contact tables in the main concourse area, available for reservation for up to two-week periods (a rental fee will be charged for off-campus entities wishing to utilize the contact tables);

**8.2.5.3** Exterior locations as designated by the University. Exterior location distributions are limited to one location for no more than two consecutive weeks per group, with at least five class days between multiple registrations. In times when a large number of requests have been received, the Memorial Union Director reserves the right to reduce the two week time limit to accommodate as many users as possible. Distributor(s) must register in advance in the Memorial Union Administrative Office, at which time the following information will be required.

- The type, location, date(s), and time of the distribution;
- a copy of the literature;
- the name of the organization represented, if any; and
- the name, address, and signature of the person or a group representative.

**8.2.6** Literature may not be distributed in classrooms except by permission of the instructor or by registered student organizations at the scheduled meetings or events.

**8.2.7** Literature may not be distributed in buildings on campus other than the Memorial Union unless it is University or student organization sponsored and complies with building policies. An employee, student, or visitor may not solicit or distribute literature to NDSU employees in work areas for matters not related to NDSU business (see NDSU Policies 154 and 706.3: [www.ndsu.edu/policy/154.htm](http://www.ndsu.edu/policy/154.htm) and [www.ndsu.edu/policy/706.htm](http://www.ndsu.edu/policy/706.htm)).

**8.2.8** A poster distribution list of places on campus where notices may be posted is available in the Student Activities Office, Memorial Union 360. Bulletin boards in buildings on campus are restricted unless a notice on the board states otherwise (see NDSU Policy 154).

**8.2.9** Literature to be distributed within the Residence Halls must be approved by the Associate Director of Residence Life.

### **8.3 Demonstrations/Parades**

**8.3.1** The University community is one of inquiry and persuasion. An individual or group may protest, rally or demonstrate provided such protest or demonstration does not disrupt University operations or obstruct physical movement to, from, or within any place on the campus, including University property located off the main campus. While the campus must be open to the free exchange of ideas, the University may limit the time, place and manner of demonstrations. All members of the community are expected to conduct dialogues with dignity and courtesy. Organizers and participants must allow other community members freedom of movement on campus and the freedom to engage in the performance of their duties or the pursuit of their educational and co-curricular activities.

**8.3.2** A protest, rally, or demonstration must not interfere with the missions, processes, procedures or functions of the University. Therefore, organizers and participants must recognize and allow the staff and faculty of the University to engage in the performance of their duties, and for students to pursue their educational and co-curricular activities. Impeding or restricting these activities by making noise, blocking entrances or exits from University facilities, or by coercion, intimidation or threats or use of violence is unacceptable.

**8.3.3** Organizers and participants are expected and required to vacate an area or facility of the University when directed to do so by an authorized official of the institution.

**8.3.4** Any protest, rally, or demonstration needs to be registered with the Director of the Memorial Union or the Director's designee and NDSU Police prior to the event. Whenever possible, at least 24 hours lead time will be given. The registration process will enable University officials to:

**8.3.4.1** Outline and discuss with organizers the guidelines necessary to keep the demonstration non-violent and non-disruptive.

**8.3.4.2** Plan for the control of possible counter-demonstrations that would infringe upon the rights of the participants or result in violent or abusive action.

**8.3.5** If the Demonstration/Parade will involve a public street, applicants must also get a City of Fargo Special Event permit. Parades through campus buildings are not permitted.

### **8.4 Sale of Class Lecture Notes/Materials**

Students are prohibited from transferring their class lecture notes or instructor provided materials for commercial purposes unless approved by the course instructor. In addition to copyright issues raised by such practices, commercial sales or transfers may interfere with the educational purposes of the instruction and potentially inhibit the free discussion of ideas so central to the academic purposes of instruction at NDSU. Note: This policy doesn't prevent note taking which is provided as part of an ADA accommodation.

**8.5 Free speech** NDSU reserves the right to control the time, manner, and place of commercial solicitation, distribution of literature, and demonstrations occurring in public on the NDSU campus. Advance registration of such events is required (see procedural guidelines listed in Section 8.1).

Failure to register an event or failure to comply with NDSU time, manner, and place restrictions may result in administrative, civil, and/or criminal proceedings for any participants engaging in disruptive activities. Such activities may result in University conflict resolution proceedings, issuing a no trespass warning, and removal from campus, and/or arrest by law enforcement personnel.

**8.6 Chalking** Those individuals wishing to chalk on sidewalks near the Memorial Union should seek permission from the Memorial Union Director or the Director's designee. Contact the Facilities Management Director to seek permission to chalk in any other area. Content of messages is limited to promotion of a specific event.

**8.7 Posters, signs, handbills** Placing posters, signs, or handbills except on one's own personal property or in areas authorized and provided for that purpose by the University is prohibited. In general individuals should seek permission to post from the individual(s) who has (have) administrative control of that location. For guidance where this person is unknown, please contact the Dean of Student Life Office.

## 9. Code of Student Behavior Sanctions, Terms, and Conditions

A sanction is a consequence placed upon any student/organization for conflicts with specified University policies. Sanctions help define the student/organization's relationship with the University in the context of current and potential future behavior, including a notice that further conflicts may lead to more severe behavioral sanctions. In assigning one or more sanctions for inappropriate student behavior, the hearing officer or board will consider:

- (1) the facts of the case as presented by the accuser(s) and the accused,
- (2) the existence of any physical evidence or written or oral information provided by the accused student and/or witnesses,
- (3) the type and severity of the offense, and/or
- (4) previous incidents of inappropriate behavior committed by the individual(s) accused.

If a student/organization is found not responsible for the alleged Code violation(s), no action will be taken against the accused student/organization. In cases in which the student/organization is found responsible for violating one or more policies, one of the following sanctions may be imposed:

- (1) Warning,
- (2) Behavioral Probation,
- (3) Suspension,
- (4) Voluntary Withdrawal, or
- (5) Expulsion.

In certain circumstances and by mutual agreement, the student may be allowed to voluntarily withdraw from the University. The University reserves the right to impose any necessary terms and conditions during the period of non-enrollment and/or upon the return of the student to NDSU.

With each sanction, other educational or restorative actions or other terms and conditions may be assigned. These include, but are not limited to:

1. Restitution
2. Confiscation
3. Restricted Access to University facilities and grounds,
4. Loss of privileges,
5. Participation in a specific program,
6. Educational projects, and/or
7. Alcohol or Other Drug testing and/or evaluation.

### 9.1 Sanctions

**9.1.1 Written Warning** A warning is a written notification that subsequent Code violations will normally result in more severe sanctions. This action results in no notation on the student's academic transcript.

**9.1.2 Behavioral Probation** Behavioral Probation is a written notification of a specified period of review and observation during which the student/organization must demonstrate the ability to comply with University policies and any other terms or conditions that have been imposed in writing. The specific terms of the probation will be determined on a case-by-case basis. Notification may be given to other University officials as necessary. Behavioral Probation may be supervised or unsupervised. Further inappropriate behavior may result in additional sanctions to be assigned, including but not limited to Suspension or Expulsion. This action results in no notation on the student's academic transcript.

**9.1.3 Suspension** Suspension is a written notification of the termination of status as an enrolled student or registered student organization for a specified period of time not less than one academic semester and not to exceed two academic years. An individual student may not reenroll during the period of suspension.

- (a) A student who has been suspended must vacate Residence Life facilities within the time frame established in the written notice of the suspension.
- (b) The notice will include the terms and conditions for readmission that must be met prior to application for readmission. Students may

obtain a Petition for Readmission form from Registration and Records, 110 Ceres Hall. An interview with the Dean of Student Life or the Dean's designee will also be required prior to acceptance of the student's application for readmission.

(c) While a student is under suspension from NDSU, no academic credit will be accepted for transfer from any other higher education institution. The student's transcript will carry a notation "May Not Register for Nonacademic Reasons" without further explanation. If the student is subsequently readmitted, the original notation will remain on the transcript and a new notation will be added, "Eligible for Registration Effective . . ."

(d) The student's eligibility for any refund of tuition/fees will be subject to the University's normal withdrawal policy.

(e) There may be other restrictions placed on the suspended student/organization including but not limited to restricted access to the entire campus, specified campus facilities, or portions of specified campus facilities. The student/organization may also be required to obtain prior written permission of the Dean of Student Life or the Dean's designee before being on any portion of the NDSU campus during the period of suspension. Usually a student with restricted access to the campus will be allowed on campus to conduct business related to the University but only through prior written approval by the Dean of Student Life or the Dean's designee.

(f) Suspension is a matter of permanent record. A permanent record indicates that student behavior files may be retained indefinitely at the discretion of the Dean of Student Life or the Dean's designee, but not less than seven (7) years.

**9.1.4 Expulsion** Expulsion is a written notification that the student is permanently ineligible to return to the University. The student must leave University residences and cease all use of University owned or controlled buildings, properties, and services within the time frame established in the written notice of the Expulsion. Petitions for Readmission will not be accepted. The Expulsion will be recorded on the student's transcript as "May Not Register for Nonacademic Reasons" and is a matter of permanent record.

(See Section 16.1.3 for a definition of permanent record.)

**9.1.5 Voluntary Withdrawal** In some circumstances, based on mutual agreement, the student may be allowed to withdraw on a voluntary basis. Conditions may be imposed concerning the period of time after which the student may petition for readmission and/or for other conditions to be met prior to readmission. A meeting will be required with the Dean of Student Life or the Dean's designee prior to the approval of the student's petition for readmission. This action results in no notation on the student's academic transcript.

## **9.2 Terms and Conditions of Sanctions**

**9.2.1** A student/organization may be required to repair, pay the cost for the repair, or pay for the cost of the replacement of any property damaged by the student/organization. In each case, the goal will be to return the damaged property to its existing condition at the time of the damage. The determination of the method used to calculate restitution shall be the responsibility of the hearing officer or board, taking into consideration the fair market value or the cost to repair the damaged item(s). When available and appropriate, secondary markets may be utilized. The decision maker shall consider testimony and/or evidence provided by both parties to achieve a fair and just result. In the case of personal injury, the responsible party may be required to cover the cost of medical care for others harmed as a result of the student/organization's actions.

Restitution may be imposed as a single sanction or in addition to other appropriate sanctions. Failure to make timely arrangements for restitution may result in cancellation of the student's registration, may prevent the student's re-registration, or may result in additional sanctions including but not limited to Suspension or Expulsion.

When the responsible party is a student organization, additional sanctions against the organization may also be assigned for failure to make timely arrangements for restitution.

**9.2.2 Confiscation** In addition to items already seized as evidence, goods used or possessed in conflict with University policies and/or local, state, or federal laws, including but not limited to falsified information or identification, may be confiscated and not returned to the student/organization.

**9.2.3 Loss of Privileges** A student/organization may be denied various privileges customarily associated with being a student/organization at NDSU. Such privileges include, but not limited to one or more of the following:

- (a) being an active participant in and/or to be in attendance at any or all public events sponsored by the University or by students, and
- (b) holding office in any Congress of Student Organizations (CSO) recognized student organizations, and
- (c) receiving guests in residence life facilities during regular visitation periods, and
- (d) visiting residence life facilities, and
- (e) receiving financial aid, and
- (f) being employed by the University, and
- (g) representing the University, and
- (h) sponsoring or hosting organization or campus-wide functions, and/or
- (i) maintaining recognized status with the CSO.

**9.2.4 Participation in a Specific Program** A student/organization may be required to participate in a specific program, such as counseling, public service, an alcohol and/or other drug education program, an educational class, or other program participation as assigned.

**9.2.5 Educational Projects** A student/organization may be assigned an educational project including but not limited to writing a reflection or research paper, preparing a bulletin board, or sponsoring a program.

**9.2.6 Alcohol/Drug Testing and/or Evaluation** The University reserves the right to require alcohol/drug testing and/or evaluation as a condition of enrollment or continued enrollment when: (a) a student's behavior has been injurious to self or others while under the influence of alcohol/drugs, or (b) when the student has had three or more separate violations involving alcohol/drugs. All such testing and/or evaluation

shall be at the student's expense. The student will be expected to sign appropriate releases to demonstrate to the University that the student is complying with any recommendations for treatment resulting from such testing and/or evaluation.

### **9.3 Special Circumstances and conditions**

**9.3.1 Emergency Suspension** A student/organization may be temporarily suspended, pending a hearing, when the student/organization's actions or threats of action indicate a serious threat to the welfare and safety of persons or property. No hearing will be required before the temporary suspension is imposed; however, one will be convened within five working days following the suspension. If the suspension is upheld, the suspension remains subject to the rules outlined in Suspension (Section 9.1.3) and remains a matter of permanent record. (See also Section 16.1.3)

**9.3.2 Returning and/or New Students** If an act that violates this Code is committed by a student during a period of nonenrollment, a registration hold may be placed to prevent the student's registration until a hearing may be held on that matter. The former student may be notified about these holds at the time the University is first notified about the incident or notice may be provided when the student subsequently requests reenrollment.

In addition, an Administrative Hearing Officer, in consultation with the Dean of Student Life, may place a registration hold to deny a student the right to register for nondisciplinary reasons. These reasons may include, but are not limited to, the student's arrest or when criminal charges are pending against the student, serious concerns arise about the health or safety of the students or others in the University community, and/or as otherwise provided by NDSU Policy 607—Admission & Re-enrollment Safety Risks ([www.ndsu.edu/policy/607.htm](http://www.ndsu.edu/policy/607.htm)).

### **9.3.3 Registration/Graduation Hold**

(a) If a student (new, current, or returning) fails to respond to a request to meet to discuss an alleged violation of this Code or if the student fails to comply with conditions and sanctions assigned as a result of being found responsible for a violation

of this Code, a hold may be placed on the student's ability to reregister or the student's current registration may be canceled. If canceled, the student's eligibility for any refund of tuition/fees will be subject to the University's normal withdrawal policy.

(b) No student will be permitted to graduate or officially withdraw from NDSU while disciplinary action is pending. If the student withdraws before NDSU becomes aware of the potential violation of this Code, the student's academic records will be placed on hold and the allegations must be resolved prior to the student's readmission.

(c) If a student has been awarded a degree and it is subsequently discovered that the student committed a serious breach of this Code before the date the degree was awarded, the University reserves the right to hold a disciplinary hearing. If the student is found responsible for a serious breach of this Code, the University may elect to rescind the degree as part of assigned sanctions.

#### **9.3.4 Involuntary Psychiatric Withdrawal**

**Standards** A student may be subject to involuntary withdrawal, if it is determined by clear and convincing evidence, that the student is suffering from a mental disorder as defined by the current American Psychiatric Association Diagnostic Manual or its equivalent, and as a result of such a disorder engages or threatens to engage in behavior which:

(a) poses a significant danger of causing imminent harm to the student or to others or

(b) directly and substantially impedes the lawful activities of other members of the campus community. These standards do not preclude North Dakota laws. Consideration will be given first to the use of normal disciplinary processes of counseling, voluntary withdrawal, use of the state commitment laws, or the use of other alternatives whenever appropriate.

**Disciplinary Violations** A student accused of violating University disciplinary regulations may be diverted from the disciplinary process, if the student, as a result of a mental disorder:

(a) lacks the capacity to respond to pending disciplinary charges or

(b) did not know the nature or wrongfulness of the conduct at the time of the offense.

Students subject to disciplinary charges who wish to introduce relevant evidence of any mental disorder must so inform the Dean of Student Life or the Dean's designee in writing at least two business days prior to any disciplinary hearing.

The Dean of Student Life may elect to appoint a designee to act in administering this policy. If the Dean of Student Life or the Dean's designee determines that the evidence may have merit, the case will then be resolved in accordance with these standards and procedures. If it is determined that the student does not meet the criteria mentioned above, the case will be returned to the disciplinary process.

**Evaluation Referral** The Dean of Student Life or Dean's designee may refer a student for an evaluation by an independent, licensed psychiatrist or psychologist chosen by the institution if the Dean of Student Life or Dean's designee reasonably believes that the student may meet the criteria in Section 9.3.4, or if a student subject to disciplinary charges wishes to introduce relevant evidence of any mental disorder. A student referred for evaluation will be informed in writing and the evaluation must be scheduled no later than five days from the date of the referral letter. The evaluation will be at the student's expense. If a student fails to complete an independent evaluation, he or she may be subject to the disciplinary process or an immediate interim withdrawal.

**Interim Withdrawal** As stated above, an interim withdrawal may be implemented if a student fails to complete an evaluation with a licensed psychologist or psychiatrist. Also, an interim withdrawal may be undertaken immediately if the Dean of Student Life or Dean's designee determines that a student may be suffering from a mental disorder, and the student's behavior poses an imminent danger.

A student subject to interim withdrawal shall be given written notice. The student, whether or not an evaluation has been completed, shall be given the opportunity to appear personally before the Dean of Student Life or Dean's designee within 72 hours of the effective date of the interim withdrawal to review:

(a) the reliability of the information concerning the student's behavior and

(b) whether the student's behavior poses an imminent danger. During an interim withdrawal, the Dean of Student Life may place restrictions, including but not limited to class attendance and the use of campus services and facilities.

A student subject to interim withdrawal may be assisted by an individual of his or her choice.

**Involuntary Withdrawal** A student under consideration for involuntary withdrawal will be accorded an informal hearing with the Dean of Student Life or Dean's designee. The informal hearing will be held within seven working days after an evaluation by a licensed psychologist or psychiatrist has been completed. Prior to the informal hearing, the Dean of Student Life or Dean's designee and the student will have an opportunity to review independently the psychological or psychiatric evaluation.

(a) The informal hearing proceedings are conducted by the Dean of Student Life or Dean's designee. The student may be assisted in the informal hearing by an individual of his or her choice. The student will remain withdrawn on an interim basis pending completion of the informal hearing.

(b) A written decision shall be rendered by the Dean of Student Life or Dean's designee containing a statement of reasons for any determination leading to involuntary withdrawal. The student should also be advised as to when a petition for reinstatement would be considered, along with any conditions for reinstatement. The student may appeal the decision to the President.

## 10. Reporting, Investigating, and Resolving Complaints

The complaint resolution procedures in this Code are administrative proceedings used to determine whether a student/organization is responsible for alleged violations of the Code of Student Behavior. The purposes of the complaint resolution procedures include the following:

- (a) to provide for the education of students;
- (b) to promote the health, safety, and well-being of University community members;
- (c) to provide for fair inquiries concerning alleged violations of University policies;

(d) to determine through fair procedures whether or not any individual student/organization has violated a University regulation;

(e) to allow for consideration of extenuating or mitigating factors when a violation has been found to exist; and

(f) to determine a resolution that will be appropriate and will help the student/organization make a constructive response toward self-discipline.

**10.1 Reporting Alleged Violations** An alleged violation should be reported to:

- the Dean of Student Life Office,
- the Memorial Union Administrative Office, and/or
- the Department of Residence Life.

Complaints should be reported as soon as possible following the discovery of the alleged inappropriate behavior. The complaint may be initiated by any member of the NDSU community, including students, faculty, staff members, and guests of the campus.

**10.2 Crimes of Violence** In cases of crimes of violence, the Dean of Student Life or designee may increase but not decrease time lines stated in the Code and may determine by whom the case is heard.

The term "crime of violence" means:

- (a) an offense that has an element of the use, attempted use, or threatened use of physical violence against the person or property of another, or
- (b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. Examples include but are not limited to arson, auto theft, assault, burglary, homicide, manslaughter, murder, robbery, and forcible and nonforcible sexual offenses.

**10.3 Notification of Hearing Outcomes for Crimes of Violence** Complainants who are victims of crimes of violence have a right to be notified of the outcome of complaint resolution procedures. Notification shall be limited to the responsible student(s), the part(s) of the Code violated, and the assigned sanction(s).

Complainants in receipt of this information may assume personal civil liability for releasing this information to others.

**10.4 Conditions Under Which Emergency Suspension May Be Imposed:**

- (a) to ensure the health, safety, or well-being of members of the University community;
- (b) to preserve University property;
- (c) to ensure the suspended student's own physical and emotional safety and well-being, or
- (d) to ensure against the disruption of, or interference with, the normal operations of the University.

No hearing will be required before the temporary suspension is imposed; however, one will be convened within five working days following the suspension.

**10.5 Incarcerated Students** In cases involving incarceration, a hearing will be held when the student is available for a hearing. Under these circumstances, the Dean of Student Life or the Dean's designee may choose to hold an administrative hearing rather than a Complaint Resolution Board hearing.

If the Suspension is upheld following the hearing, the Suspension remains subject to the rules outlined in Suspension above and remains a matter of permanent record. (See Section 16.1.3 for a definition of permanent record.)

**10.6 Notice of Alleged Violations** Within a reasonable number of working days (generally 15) of receipt of the complaint, the designee of the Dean of Student Life will send a written notice to the accused student/organization to arrange a prehearing conference.

- (a) the nature of the alleged inappropriate behavior;
- (b) the date, time, and place of the alleged inappropriate behavior;
- (c) the source of the complaint;
- (d) a summary of the evidence to be presented; the maximum sanction applicable if found in violation of the Code of Student Behavior;
- (e) a notice that a decision will be made in the student's absence if the student chooses not to appear at the hearing and that the failure to appear

will be considered in reaching a decision whether or not the behavior Code has been violated; and (f) will include a printed copy of the Code or the URL directing the student to the on-line copy of the Code.

**10.7 Oral Notice** In some cases an oral request for a pre-hearing conference may be made (followed by a written request if the student/organization so chooses), particularly in minor cases or cases in which an expedited hearing is appropriate. Oral notice of expedited hearings may be used the two weeks prior to any University break of more than one week or when the student has indicated a decision not to return for the following semester.

**10.8 Prehearing Conference** During the prehearing conference, the hearing officer discusses and explains:

- (a) The student's rights and responsibilities;
- (b) the nature of the complaint and how the Code of Student Behavior may have been violated;
- (c) that the student has a right to make a written and/or oral statement describing the event(s) that led to the charges; and
- (d) that the student may request an immediate administrative hearing take place with the hearing officer.

Cases involving student organizations will be forwarded to the hearing officer at the time the group selects a hearing with an Administrative Hearing Officer. The hearing officer may refuse to hear the case and refer it to another hearing officer or a Complaint Resolution Board.

**10.9 Administrative Hearing and Complaint Resolution Board**

The Code of Student Behavior Complaint Resolution procedures at NDSU include:

- (a) an Administrative Hearing Officer designated by the Dean of Student Life or designee [See Section 12], or
- (b) a Complaint Resolution Board [See Section 13].

**10.10 Default Proceedings for Current Students** A student who fails to appear for a hearing on the date set to answer or contest the



alleged charges of a violation of University policies will be considered as being in default. The case may be decided based on the information available at that time. Default decisions may be reexamined only upon showing by the student/organization that the absence was for a good cause.

**10.11 Student Leaves the University with Unresolved Charges** When a student leaves the University with unresolved charges, the Administrative Hearing Officer or a Complaint Resolution Board may make a decision in the student's absence, providing the student was issued an advance written notice of the date, time, and place of the scheduled hearing.

In certain cases, the Administrative Hearing Officer reserves the option to place a registration hold on the student's records and archive the case until such time that the student requests re-registration or a resolution of the pending matter. The Administrative Hearing Officer may also place a transcript notation "May Not Register for Non-Academic Reasons" after recommendation to and approval from the Dean of Student Life.

**10.12 Student Organizations in Default** In the event a student organization becomes inactive rather than appear for a hearing, the default decision will typically be withdrawal of recognition granted by the Congress of Student Organizations. In addition, officers of the organization at the time of the incident may face conduct proceedings individually for Failure to Comply with the Instructions of a University Official (see Section 4.12) and may also be charged with one or more of the original alleged violations of the Code arising from the alleged misconduct by the organization. If found responsible for this violation, the original incident that led to allegations against the student organization will be considered in the determination of sanctions for the organizational officers.

If the organization requests registration at a later date, the Dean of Student Life or the Dean's designee will meet with the student organization leadership to determine responsibility for the original charges, determine or recommend the appropriate sanction, and if that sanction is less

than suspension or expulsion, will assess the need for any current remedial actions.

## **11. Student/Organization Rights Guaranteed in the Complaint Resolution Procedures**

A student/organization is considered to have violated this Code when the student/organization:

- (a) admits to the violation; or
- (b) the evidence available at the time of the hearing supports a finding of responsibility under this Code.

**11.1 Burden of Proof** The burden of proof will rest upon the party attempting to substantiate the conflict with a University regulation.

**11.2 Standard of Proof** The standard of proof will be that it is "more likely than not" that the Code of Student Behavior has been violated.

**11.3 Written Notice of Charges** The student/organization and the complainant must be given notice in writing of a summary of the charges and evidence to be presented in sufficient time to insure an adequate opportunity to prepare for the hearing. The University will do all it can to ensure that the student and the complainant receive oral or written notification of the hearing forty-eight (48) hours prior to the hearing date. The complainant is usually a University staff member who is presenting the complaint on behalf of the University.

**11.4 Conflicts of Interest** No Administrative Hearing Officer or board member who has a conflicting interest in the particular case may sit in judgment during that proceeding. Each party has the right to challenge an Administrative Hearing Officer or board member for good cause in writing to the Dean of Student Life or designee at least forty-eight (48) hours prior to the hearing. If a charged student/organization or a complainant fails to raise a perceived conflict by objecting to that person two working days in advance, any objection is deemed to be waived. An individual may not be disqualified solely on the basis of his or her position in the University community.

**11.5 Witnesses and Evidence** The accused student/organization and the complainant shall be

given every reasonable opportunity to present their cases, including the presentation of other evidence beyond written and oral testimony by themselves and their witnesses. Witnesses will remain only for the duration of their own testimonies.

If both parties agree, the hearing may be limited to a consideration of written statements. All testimony and other evidence upon which the decision will be based must be introduced into evidence at the proceeding or must have been provided in writing to the Administrative Hearing Officer or the Chair of a Complaint Resolution Board forty-eight (48) hours prior to the hearing for distribution to the board members. The decision must be based solely upon such information presented in the proceeding. Any evidence acquired in violation of the University rules on investigation of student behavior shall not be admissible (see Section 13.4.1, Evidence). The focus of the complaint resolution proceedings shall be to determine whether the accused student/organization is responsible or not responsible for the alleged Code violations. Formal rules of evidence shall not be applicable, nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding, unless significant prejudice to a student or the University may result.

**11.6 Hearsay evidence** is permitted and will be given any weight deemed appropriate by individual decision makers.

**11.7 General character witnesses** are usually not permitted to appear before the hearing officer/Board, but the accused student/organization may submit up to three written documents to the hearing officer/Chair of the Board 48 hours prior to the hearing. Each statement must be dated and signed, with the name of the individual signing printed below to ensure legibility. The hearing officer/Chair of the Board may consider them during sanctioning, if the accused student is found responsible for violating this Code.

**11.8 Questioning Witnesses** The student/organization and the complainant have the right to address questions through the hearing officer/board to other witnesses at the hearing. If

both parties agree, however, the hearing may be limited to a consideration of written statements. A witness may testify in the absence of the accused student/organization with the prior approval of the Administrative Hearing Officer or the Chair of a Complaint Resolution Board.

An absolute right of cross-examination is not granted under this Code. All questions will be addressed to the Administrative Hearing Officer or Complaint Resolution Board Chair. The Administrative Hearing Officer or Complaint Resolution Board Chair will then rephrase relevant and reasonable questions, if necessary, and will retain the right to exclude questions that are redundant or irrelevant to determining responsibility. Persons answering questions will be given reasonable latitude to respond to questions fully.

**11.9 Hearing Advisor** The student/organization and the complainant each have the right to have a person present who may act in an advisory capacity. This person cannot address a Complaint Resolution Board or the hearing officer and may not ask questions of witnesses.

**11.10 Attorneys** If the student/organization chooses to have an attorney present, the NDSU General Counsel may also be present to observe the proceedings. The complainant, if not a University staff member, may also choose to have an attorney present during his/her presentation. The role of the attorneys shall not be to participate in the hearing other than to advise their own clients. Attorneys who do not respect this provision may be cautioned by the hearing officer/Chair of the Board and if they persist, may be asked to leave.

**11.11 Self Incrimination** Accused students and witnesses shall not be compelled to incriminate themselves by being forced to testify that they engaged in behavior constituting a violation of this Code and/or local, state, or federal law. No form of harassment may be used by institutional representatives.

**11.12 Closed Hearings** All hearings are normally open only to those persons who are part of the proceedings, unless otherwise arranged by prior mutual written agreement between the

charged student/organization and the Dean of Student Life. Witness(es) will remain only for the duration of his/her (their) own testimony. Exceptions may be made by the Dean of Student Life or the Dean's designee.

**11.13 Search and Seizure** University policy on the privacy of student rooms stipulates that entry and search of University residences by University officials will be permitted only in one or more of the following instances:

- (a) when a student consents to the search;
- (b) when the officials responsible fear an imminent danger to health, safety, life, or property;
- (c) when a written administrative authorization specifying the reasons for the search, the objects of information sought, and the area to be searched has been given by the Vice President for Student Affairs, Dean of Student Life or the Director of Residence Life, or a person acting in their capacities during their absences from the campus;
- (d) when the University officials fear imminent destruction of evidence relevant to a suspected violation of University regulations; when students are suspected of violating the NDUS or NDSU Acceptable Use Policies, student computers, associated peripheral devices, and media storage devices may be taken into temporary custody on the authority of the Information Technology Services Officer, ITSO, to collect and preserve evidence of possible violations of the Acceptable Use Policies, which may also include possible violations of local, state, or federal laws. (See NDSU Policy 158: Acceptable Use of Electronic Communications Devices: [www.ndsu.edu/policy/158.htm](http://www.ndsu.edu/policy/158.htm) and State Board of Higher Education (SBHE) Policy 1901.2, Computing Facilities: [www.ndus.edu/policies/ndus-policies/subpolicy.asp?ref=2551](http://www.ndus.edu/policies/ndus-policies/subpolicy.asp?ref=2551)). If additional questions remain, contact the Information Technology Services Officer, ITSO, for additional guidance.

**11.13.1** Searches of University residences, fraternity, or sorority rooms by law enforcement officials will be regarded by University officials as a matter of primary interest to the students and law enforcement officials involved. The University requires that the Dean of Student Life be notified of impending searches. The University will not intervene between students and searches authorized under law by any law enforcement

agencies. At the conclusion of those actions and when provided information by law enforcement agencies, the University reserves the right to initiate action under this Code when alleged violations of the Code are believed to have occurred.

**11.13.2** The right to inspect student rooms and apartments without notice is reserved by the University for purposes of maintenance, cleaning, fire, and personal safety, and for purpose of administering provisions of the license contract. The University will provide reasonable notice, when possible. Such entry by the University shall not be regarded as a search, but is separately agreed to and authorized by the student through the provisions in the residence license contract.

**11.13.3** No form of harassment may be used by institutional representatives to coerce admissions of guilt or information about one's behavior or that of other suspected persons.

## **12. Administrative Hearings**

Cases are normally heard by administrative hearings. In certain situations, a student may request a Complaint Resolution Board Hearing (See Section 13.1, Complaint Resolution Board Jurisdiction). The University also reserves the right to submit the case to a Complaint Resolution Board either initially or at any point in an administrative hearing if it becomes apparent the case may warrant suspension or expulsion.

An administrative hearing involves the alleged student/organization, the Administrative Hearing Officer, and any other individuals necessary to determine whether or not there has been a violation of University policies. The Administrative Hearing Officer is the NDSU representative assigned to process an alleged conflict with University policies. The student's rights remain the same whether or not the student receives an administrative hearing or a hearing before a Complaint Resolution Board. Advantages of an administrative hearing include a more timely resolution of the conflict and the involvement of fewer individuals.

### **12.1 Administrative Hearing Sanctions**

Sanctions imposed following an administrative hearing may not include suspension or expulsion

unless:

1) the student receives written notice that the student's case was serious enough to warrant possible suspension or expulsion, and the student voluntarily waived the right to a hearing by a Complaint Resolution Board, and  
2) if the Administrative Hearing Officer believes that suspension or expulsion is warranted, the Administrative Hearing Officer will make this recommendation to the Vice President for Student Affairs or the Vice President's designee. Upon receipt of approval of the recommended sanction from the Vice President for Student Affairs or the Vice President's designee, the Administrative Hearing Officer will issue the written decision.

### **12.2 Student Organizations/Greek Life**

University administrators who have direct responsibility for Greek Life and Student Organizations will process judicial cases related to fraternities, sororities, and student organizations. Individual organizational boards will address only violations of those organizational standards, not this Code.

**12.3 Written Decision** If the student/organization chooses an administrative hearing, the hearing officer will generally render a written decision within 10 working days after the hearing.

## **13. Complaint Resolution Board**

**13.1 Jurisdiction** A student shall be granted a hearing before a Complaint Resolution Board to determine whether or not a specific behavior has violated the Code of Student Behavior or related policies identified in the Code:

- (a) if the sanction normally administered for such behavior might include suspension or expulsion from NDSU, or
- (b) if the student's prior behavior record, plus a finding of responsibility for the current alleged violation, might result in a recommendation for suspension or expulsion from NDSU.

In addition, the Administrative Hearing Officer may refer a case to the Board if the hearing officer is unable to hear the case due to a conflict of interest or another reason.

### **13.2 Pool Composition and Board Selection**

The pool of potential members of a Complaint Resolution Board may include students, faculty,

and staff. The Dean of Student Life may draw upon this pool to constitute a board of at least three members.

The Dean of Student Life or the Dean's designee may draw from the hearing pool to make substitutions as needed to avoid the delay of a hearing.

**13.3 Board Chair** A Complaint Resolution Board Chair will be appointed by the Dean of Student Life or the Dean's designee. The Chair's role is to conduct the hearing in an orderly fashion, to determine whether evidence presented or questions asked are relevant to the proceeding, and to assign appropriate sanctions if the accused student is found responsible for violating the Code. Normally, the Chair does not ask questions during the hearing; however, if the Chair believes that questions have not been asked that would help the Board determine whether the accused student is responsible for violating the Code, the Chair may ask those questions.

**13.4 General Provisions** Complaint resolution hearings are normally open only to those people who are part of the proceedings, unless otherwise arranged by prior mutual written agreement between the charged student/organization and the Dean of Student Life. The Dean of Student Life may permit a limited number of NDSU personnel to be present as observers for the purpose of training.

**13.4.1 Evidence** Because this is an educational hearing, formal rules of evidence do not apply. Every effort will be made to allow all reasonable and relevant information to be presented for the Board's consideration (see Section 11.5, Witnesses and Evidence).

#### **13.4.1.1 Written Documents and Other Items**

Parties planning to bring items to a hearing must generally provide copies of those items to the other parties and the members of the committee forty-eight (48) hours prior to the hearing to allow for a review of the items and the development of any pertinent questions. The Chair may permit deviations to this time restriction so long as the student has sufficient time to prepare for the Board hearing. Either party or their witnesses before the Board will be permitted to elaborate on

written documents previously submitted to the Board in their oral presentations to the Board.

**13.4.1.2 Standard of Proof** In reaching a decision the Board shall consider only information produced at the hearing and will evaluate the information using the "more likely than not" standard of proof.

**13.4.2 Decisions** The Board will determine, by a majority vote, whether or not the student violated one or more sections of this Code. Following a finding of responsibility, the Chair of a Complaint Resolution Board may choose to meet with the student to request additional relevant information so that an appropriate sanction can be determined. The Chair of the Board may take into consideration any prior Code violations in recommending an appropriate sanction.

**13.4.3 Audio Recording** All hearings of a Complaint Resolution Board will be recorded up to the point of the Board's deliberations necessary to render a decision. A copy of the recording will be made available for the purpose of preparing an appeal. Recordings will be stored as part of the student/organization's file. In some situations, the Chair of the Board may recommend to the Dean of Student Life that the hearing be videotaped, rather than audio-taped. Notice will be provided to the student no less than forty-eight (48) hours before the hearing.

## 14. Complaint Resolution Board Procedures

**14.1** The Chair will call the meeting to order and will introduce the members of a Complaint Resolution Board and their function within the university.

**14.2** The Chair will describe the general outline of the hearing and the general provisions (Section 13.4) to the Board. The Chair will read the following honesty statement:

*The University expects that all information presented in this hearing will be true and correct to the best of each person's knowledge. If students willfully provide false information, they will be in violation of NDSU's Code of Student*

*Behavior. As a result, they may also be subject to additional disciplinary action.*

*Dishonest behavior by any faculty or staff member will be reported to that person's supervisor for any necessary disciplinary action.*

**14.3** The Chair will dismiss witnesses until they are called to speak before the Board.

**14.4** The Chair will introduce the complainant who will present the complaint. The University reserves the right to be the complainant in any case in which the University's interests are significantly affected in addition to the interests of the person(s) bringing forward the initial allegations.

**14.5** The complainant will be permitted to make any additional comments necessary to ensure the complaint has been presented accurately and clearly.

**14.6** The Chair will introduce the accused student/organization who will be asked to make a statement concerning whether the student/organization is responsible or not responsible for the Code violations outlined in the hearing notice. The student/organization is also permitted to present information to the Board that is relevant in determining whether the student/organization violated one or more sections of this Code.

**14.7** The *complainant* will be allowed to present witnesses who may be asked questions by the complainant, the accused student/organization, the members of the Board, and the Dean of Student Life or the Dean's designee. Questions by both parties may be directed to the Chair who will then determine if the question is relevant to the proceeding, ask if the respondent understands the question, and request a response. At the Chair's discretion, questions may be placed directly between parties. Permission to address parties directly may be withdrawn by the Chair at any time.

**14.8** The *accused student/organization* will be allowed to present witnesses who may be asked questions by the accused student/organization, the complainant, the members of the Board, and the Dean of Student Life or the Dean's designee.

Questions by both parties may be directed to the Chair who will then determine if the question is relevant to the proceeding, ask if the respondent understands the question, and request a response. At the Chair's discretion, questions may be placed directly between parties. Permission to address parties directly may be withdrawn by the Chair at any time.

**14.9** The complainant and the accused student/organization will be permitted to ask questions of each other. In sexual assault cases, the Dean of Student Life may make minor alterations in the hearing process, so long as no student is disadvantaged by those changes.

**14.10** Final questions will be permitted by the Board members and the Dean of Student Life or the Dean's designee who may question either party and/or their witnesses.

**14.11** Both parties will have an opportunity for closing statements. The complainant will present first, followed by the student/organization.

**14.12** All parties, except for the Chair and board members will be dismissed for deliberations by the Board. Only board members and the Chair may be present during deliberation and recording will stop at this point.

**14.13** A Complaint Resolution Board may suggest one or more sanctions and related terms and conditions from those listed in the Code; however, these suggested sanctions are not binding upon the Chair of a Complaint Resolution Board who issues the final decision for the Board and selects appropriate sanction(s).

#### **14.14 Suspension or Expulsion**

**Recommendations** If the Chair believes that suspension or expulsion is warranted, the Chair will make this recommendation to the Vice President for Student Affairs or the Vice President's designee. Upon receipt of approval of the recommended sanction from the Vice President for Student Affairs or the Vice President's designee, the Chair will issue the written decision as outlined below.

**14.15** The Chair of a Complaint Resolution Board will send a written notice of the Board's

findings to the student(s)/organization stating whether or not the Code of Student Behavior was violated. The written notice will include sanctions, if necessary, issued by the Chair of a Complaint Resolution Board. The notice will generally be sent within 10 working days following the hearing. Time extensions may be granted by the Dean of Student Life.

## **15. Appeal Procedures**

Students sanctioned for violations of this Code may appeal. The hearing decision may be appealed to the Dean of Student Life or the Dean's designee. Only in cases in which the sanction involves suspension or expulsion from NDSU may an appeal be made to the President of NDSU.

**15.1 Deadline for Appeals** An appeal for any decision must be made in writing within five (5) working days following the date the sanction is assigned and notice is received by the student. The date of the letter shall be the date the letter is sent. If sent by U. S. mail, three days will be added to the date the letter was mailed and that date will be used in starting the five (5) working days. If hand-delivered, a notation of that date will be made in the student's behavioral file.

In extraordinary circumstances, time extensions may be granted by the Dean of Student Life. The person to whom to appeal will be specified in the decision letter. The University reserves the right, however, to reduce the time allowed for a student/organization appeal in cases that may have the potential to result in harm to persons and/or property. The reduced time for appeal will be specified in the letter of disciplinary sanction along with the rationale for allowing reduced time for an appeal. An appeal shall be written and contain the student/organization's name, the date of the decision or action, and the reason(s) for the appeal.

**15.2 Appeal letters** must be submitted to the person specified in the decision letter and must specify in detail one or more of the following bases of appeal:

- (a) the sanction was too severe for the offense,
- (b) the decision for nonaction/action/sanction was made in an arbitrary or capricious manner.
- (c) the finding of the Code having been violated

was not substantiated by the evidence, and/or (d) the student's/student organization's rights were violated (specify those rights believed to have been violated).

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

**15.4 Appeal Review Procedures** The appeal will be reviewed by the appropriate appeals person/body. The chart showing the appeal pathways is printed in Part A. In any event, only one level of appeal will be permitted for any decision.

**15.5 Appeal Advisory Board** The President, the Vice President for Student Affairs, and the Dean of Student Life or their designee's reserve the right to appoint an appeal advisory board to review appeals. In such instances the appointed advisory board will make a recommendation that the President, Vice President for Student Affairs, and Dean of Student Life or their designees may accept or reject. The decision of the administrator will generally be issued within 10 working days of receiving the recommendation from the advisory board and that decision will be final.

**15.6 Review** The appeals person/body will review the written letter of appeal from the student/organization and the materials from the original hearing. After reviewing these materials, the appeals person/body may decide to do one of the following:

- (a) issue a decision based solely on the written materials;
- (b) issue a decision based on a review of written materials and discussion with the involved principals;
- (c) recall one or more witnesses;
- (d) return the case to the body conducting the original hearing for the presentation of new evidence and reconsideration of the decision and/or sanctions.

**15.7 Decision/Sanction** When the appeal is made by the accused student/organization, the appeals person/body may uphold or lessen the original decision/sanction but not increase the sanctions/actions imposed by other persons or bodies. The decision on the appeal will generally be made within 10 working days of receipt of the appeal, but may take longer during University recesses, in the event of complex cases, or when an advisory board has been appointed to make an appeal recommendation.

**15.8 Appeals by Complainants** may only be allowed when it is alleged that the complainant was the subject of a crime of violence, including forcible and non-forcible sexual assaults, as defined in this Code. In some cases, a complainant's appeal could result in a different decision and/or stronger sanctions than originally imposed.

**15.9 Rehearings** will only be granted if there is substantial evidence to determine that the student/organization was not afforded appropriate due process, or if there is substantial new evidence that has been discovered about the alleged violation and that was not available at the time of the earlier hearing.

## 16. Behavior Conflict Records

All behavior conflict records are confidential and may not be disclosed in whole or in part except as provided under laws including but not limited to the Family Education Rights and Privacy Act (FERPA), the USA Patriot Act, and lawful court orders. The disciplinary record shall be separate from the student's academic record, but shall be considered a part of the student's educational record. All disciplinary records shall be retained in the Dean of Student Life Office or other offices as authorized by the Dean.

Suspension and expulsion are the only behavior actions reflected on the official academic transcript of the student. At the direction of the Dean of Student Life or the Dean's designee, the Registrar shall place on the student's permanent academic record the words "May Not Register for Nonacademic Reasons." When the student is determined eligible to return to NDSU following a Suspension, the original transcript notation will remain and a new transcript notation will be

added “Eligible to return to NDSU for the ### term.”

**16.1 Behavior Conflict Records Retention and Destruction**

**16.1.1 Written Warnings** Records of written warnings will be retained in the office from which the warning was issued. These records will be kept for a period of two years and will then be destroyed if no further inappropriate behavior occurs.

**16.1.2 Behavioral Probation** In cases in which students are found in violation and receive a sanction of Behavioral Probation, with or without additional terms and conditions, records related to the hearing will be retained for a period of time, depending on the student's status.

If the students are still enrolled or have left NDSU with their degree programs not completed, then records will be retained for a period of seven (7) years following the date of the incident. If the students have graduated and are not continuing at NDSU, then records will be retained for a period not longer than two years following the

graduation date. Student disciplinary records may be retained indefinitely at the discretion of the Dean of Student Life or the Dean's designee.

**16.1.3 Suspension or Expulsion** In cases in which students are found in violation and receive a sanction of suspension or expulsion, disciplinary records will be considered permanent. Permanent indicates that disciplinary records may be retained indefinitely at the discretion of the Dean of Student Life or the Dean's designee, but not less than seven (7) years following the date of the last violation.

**16.1.4 Student Organization Records** Student organizations are considered to have a continuing relationship with NDSU so long as the organization maintains its official recognition status with NDSU. Records of behavioral conflicts involving student organizations will be retained for seven (7) years following the date of the incident. Student organization disciplinary records may be retained indefinitely at the discretion of the Dean of Student Life or the Dean's designee.

**FINAL NOTE** Occasionally there are changes of staff titles mentioned in this document. The Vice President for Student Affairs may make editorial changes relating to this document, in relation to titles of people, as long as the substance of the document is not affected.

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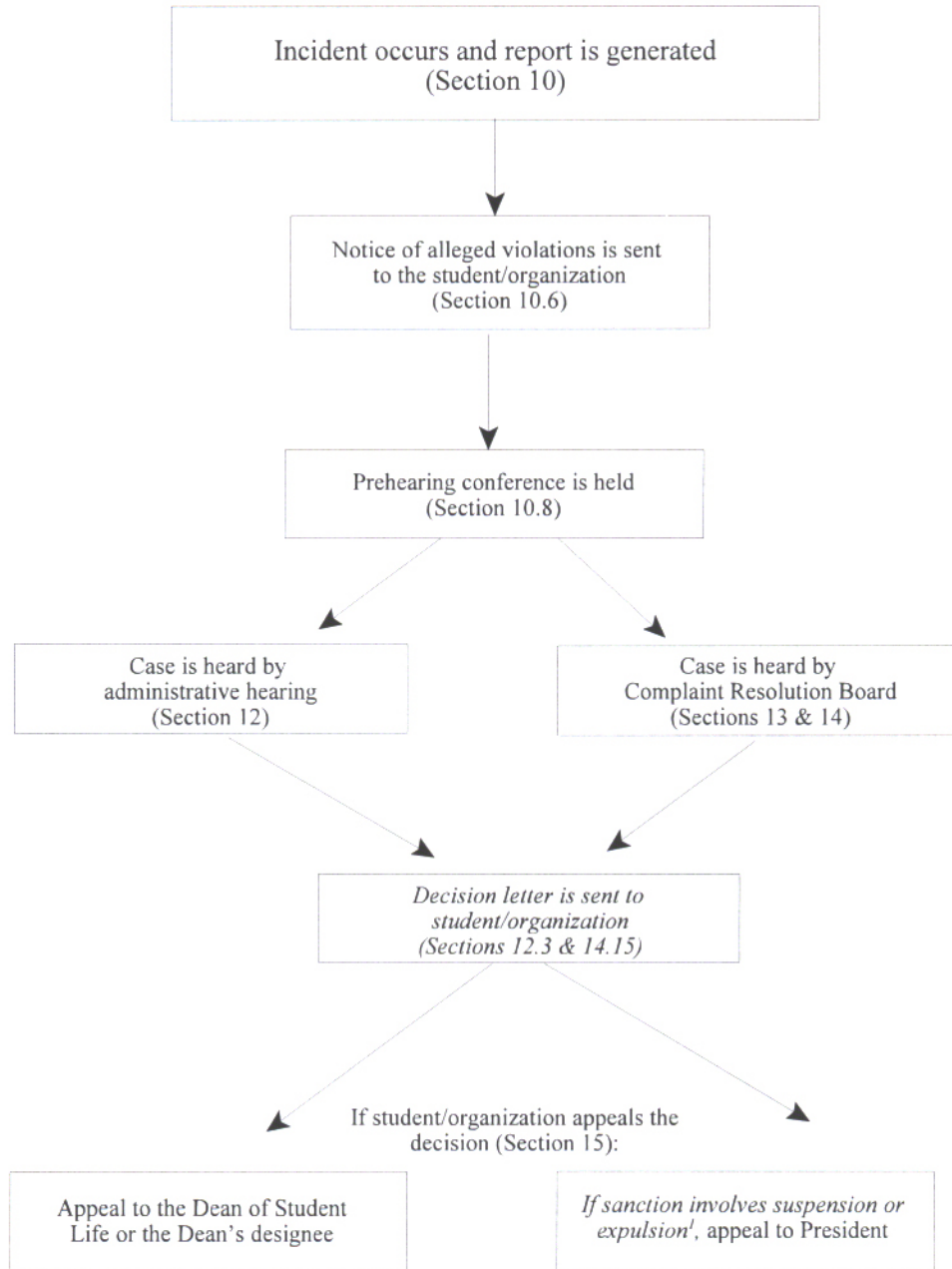
Joseph A. Chapman, President  
Approved by University President,  
Effective August 1, 2005

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Date



**North Dakota State University**  
**Part A: Appeal Chart**  
*Rights and Responsibilities of Community: A Code of Student Behavior*



<sup>1</sup>If the sanction recommended includes suspension or expulsion, approval must be received from the Vice President for Student Affairs or the Vice President's designee before the final sanction letter is issued.

There are a number of additional University policies that pertain to student life and are too numerous to include within the text of this code. Students are urged to read these documents that may be found at the locations noted below. NDSU students are responsible for knowing the content of these policies and may be held accountable under A Code of Student Behavior for any violations of these policies.

<b>Part B: Related University Policy Statements</b>	<b>Available at</b>		<b>Website</b>
	<b>Offices of the Dean of Student Life or Vice President for Student Affairs</b>	<b>Student Activities Office, Memorial Union 360</b>	
1. Academic Dishonesty--Code of Academic Responsibility and Conduct	X		www.ndsu.edu/policy/335.htm
2. Academic Freedom [ND State Board of Higher Education Policy #401.1]	X		www.ndsu.edu/policies/default.asp?ID=287 See Policy #401.1
3. Bank and Investment Accounts for Student Organizations, NDSU Policy Manual		X	www.ndsu.edu/policy/502.htm
4. Bison Card Terms and Conditions, NDSU Policy Manual	X		www.ndsu.edu/policy/703.htm
5. Conflict of Interest, NDSU Policy Manual	X		www.ndsu.edu/policy/151.htm
6. Consensual Relationships, NDSU Policy Manual	X		www.ndsu.edu/policy/1621.htm
7. Eligibility for Participation in Co-Curricular Activities	X	X	www.ndsu.edu/ndsu/studentlife/ Select 'Policies and Forms'
8. Equal Opportunity Grievance procedures	X		www.ndsu.edu/policy/156.htm
9. Fitness for Duty, NDSU Policy Manual	X		www.ndsu.edu/policy/161.htm
10. Term & Conditions of License Contract for a. Residence Halls b. University Apartments	X		<a href="http://www.ndsu.edu/reslife/">www.ndsu.edu/reslife/</a> [Terms & Conditions] a. Select 'Residence Halls' 'Application' b. Select 'Apartments' 'Applications'
11. The Grade Appeals Board	X		www.ndsu.edu/policy/337.htm
12. Greek Life a. The Greek Life Initiatives and Action Plan b. The Greek Alcohol Policy	X X	X X	www.ndsu.edu/ndsu/studentlife/ Select 'Policies and Forms'
13. <u>Health Related Policies</u> a. Measles/Mumps/Rubella [ND State Board of Higher Education Policy #506.1] b. Alcohol and Other Drugs-unlawful Use by Students, Faculty And Staff c. Student Organization Alcohol Policy	X X X	 X X	www.ndsu.edu/policies/default.asp?ID=287 See Policy #506.1 www.ndsu.edu/policy/155.htm www.ndsu.edu/policy/155.htm
14. NDHECN Computing Policy and Procedures (Misuse of Computer Facilities)	X		<a href="http://www.ndsu.edu/policies/ndus-policies/subpolicy.asp?ref=2551">www.ndsu.edu/policies/ndus-policies/subpolicy.asp?ref=2551</a>
15. Parental Notification Policy	X	X	www.ndsu.edu/ndsu/studentlife/ Select 'Policies and Forms'
16. Political Activities [ND State Board of Higher Education Policy #401.2]	X		www.ndsu.edu/policies/default.asp?ID=287 See Policy #401.2

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	<b>Offices of the Dean of Student Life or Vice President for Student Affairs</b>	<b>Student Activities Office, Memorial Union 360</b>	
17. Public/Open records, NDSU Policy Manual	X		www.ndsu.edu/policy/718.htm
18. Purchasing policies for Student Organizations, NDSU Policy Manual		X	www.ndsu.edu/policy/400.htm
19. Residency [ND State Board of Higher Education Policy #504]	X		www.ndsu.edu/policies/default.asp?ID=287 See Policy #504
20. Sale or Distribution of Racially/Sexually Offensive Material	X		www.ndsu.edu/policy/1541.htm
21. Sexual Assault Student Policy	X		www.ndsu.edu/policy/603.htm
22. Smoke-free facilities, NDSU Policy Manual	X		www.ndsu.edu/policy/153.htm
23. Student Affairs related policies, Chapter 6 of the NDSU Policy Manual	X		www.ndsu.edu/policy Chapter 6
24. Student Employment, Chapter 1 of the NDSU Policy Manual	X		www.ndsu.edu/policy Chapter 1
25. Student Records: Notification of Rights under FERPA	X		www.ndsu.edu/ndsu/deott/registrar/ferpa.pdf
26. Teaching policies, Chapter 3 of the NDSU Policy Manual	X		www.ndsu.edu/policy Chapter 3
27. Traffic and Safety/University Policy, NDSU Policy Manual	X		www.ndsu.edu/policy/706.htm
28. Transportation and Motor Pool Policies for Student Organizations, NDSU Policy Manual		X	www.ndsu.edu/policy/709.htm
29. Tri-College/Dual-College Organization Recognition Guidelines and Procedures		X	
30. University Policy on Equal Opportunity	X		www.ndsu.edu/policy/100.htm
31. University Policy on Sexual Harassment	X		www.ndsu.edu/policy/162.htm
32. University Policy on Anti Harassment	X		www.ndsu.edu/policy/163.htm
33. Use of University Name	X		www.ndsu.edu/policy/7001.htm
34. Web Page development policies for Student Organizations, NDSU Policy Manual		X	www.ndsu.edu/policy/7101.htm

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