

Policy Change Cover Sheet

This form must be completed for each policy presented. All areas in red including the header must be filled in or it will be sent back to you for completion.

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

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

Policy Number and Name: Policy 156: Discrimination, Harassment, and Retaliation Complaint Procedures

Is this a federal or state mandate: Yes No

This policy impacts (check all that apply): Students Staff Faculty Other (please describe):

*The President's Council for Campus Well-being is committed to integrating a "Health in All Policies" approach when current policies are revised and new policies are developed. Why a "Health in All Policies" approach? Policies have health effects—positive or negative--on the communities and the people who live and work within the community where the policy is implemented. In fact, the World Health Organization estimates that the social, financial, and environmental factors of a community influence up to 55% of a person's well-being. Health in All Policies (HiAP) is an approach that integrates health into decisions and policy-making. For more information, see [HiAP at NDSU 2023 Report](#).

Individual/Department/Committee or Organization submitting the policy change: Heather Higgins-Dochtermann

Date Submitted to SCC Secretary: August 27, 2024

Email address of the person who should be contacted if revisions are requested:
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NDSU’s Strategic Plan Inclusivity and Diversity Goal: Create and maintain an open and collegial environment to promote inclusivity and diversity as a cornerstone of education, research, and outreach.

Sub-Goal: Design and implement additional programming, curriculum, outreach opportunities, and **policies** that uphold inclusivity, diversity, respect, and connection. **Please address each item in the checklist below:**

Checklist items	Yes	No	N/A	Comments
The <i>social</i> impact on students, staff, faculty, others was considered (e.g. encourages a positive sense of community through an ethic of care, compassion, collaboration and/or belonging).			X	
The <i>financial</i> impact on students, staff, faculty, others was considered.			X	
The <i>physical health</i> impact on students, staff, faculty, others was considered (e.g. facilitates healthy lifestyle choices, meeting of basic human needs, and/or a safe physical environment).			X	
The <i>mental health</i> impact on students, staff, faculty, others was considered (e.g. supports skills and habits to manage stress, strengthen resilience, reduce substance abuse, and promote help seeking).			X	
Inclusive language is used (i.e. gender pronouns are not used or are inclusive, race/ethnicity, religion, etc.).			X	Previously reviewed for this.
Input from the key stakeholders (students, staff, faculty, other) was sought and included during the development/revision of the policy	X			Input obtained from Dean of Students, HR, Chief of Staff, Legal Counsel.
Input was sought from on-and off-campus offices, departments, and organizations to ensure the policy is responsive to community needs.			X	
This policy contributes to creating an environment that is safe and conducive to living, learning, working, and recreating.	X			
The policy addresses evaluation, including a person/office/entity responsible for tracking outcomes that ensure changes are positive.	X			
This policy, as written, can be enforced/implemented/applied in a sustainable manner (e.g. human resources, financial resources needed, etc.)	X			

Effect of policy addition or change: Utilize the completed checklist to provide an explanation of the important changes in the policy or effect of this policy. Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s): Changed wording from *discrimination complaint* to *discrimination/harassment/retaliation complaint* to more accurately include all allegations; changed *remedial measures* to *supportive measures* to align with other NDSU policies; changed *Notice of Action* to *Notice of Investigation and Allegations* to align with changes to Equal Opportunity and Title IX Compliance Office internal procedure change; included hyperlinks to policies that weren’t previously included; included updated office names; removed specific names. **Please review and consider this policy with Policies 100, 156.2, 162, and 333.**

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

North Dakota State University

Policy Manual

SECTION 156

DISCRIMINATION, HARASSMENT, AND RETALIATION COMPLAINT PROCEDURES

SOURCE: NDSU President

1. INTRODUCTION

- 1.1 North Dakota State University (NDSU) prohibits discrimination in its employment decisions and educational programs and activities on the basis of age, color, gender expression/identity, genetic information, marital status, national origin, physical or mental disability, pregnancy, public assistance status, race, religion, sex, sexual orientation, spousal relationship to current employee, status as a U.S. veteran, or participation in lawful activity off NDSU's premises during nonworking hours which is not in direct conflict with the essential business-related interests of NDSU, or other protected classes as defined by federal, state, or local law. (See [NDSU Section 100, Equal Opportunity and Non-Discrimination Policy](#)).
- 1.2 NDSU is committed to providing a safe and non-discriminatory learning, living, and working environment for all members of its university community. Specifically, NDSU is committed to taking action to:
 - 1) Stop discrimination;
 - 2) Remedy the effects of discrimination;
 - 3) Prevent the recurrence of discrimination; and
 - 4) Educate the university community about their rights and responsibilities regarding discrimination.
- 1.3 NDSU has committed itself to the establishment and adoption of procedures to resolve complaints of discrimination in violation of NDSU's Equal Opportunity and Non-Discrimination Policy, including complaints of harassment or retaliation. A central purpose of these complaint procedures is to provide a system at NDSU to conduct adequate, reliable, and impartial investigations of complaints of discrimination. NDSU's primary concern is to enact and implement complaint procedures that encourage reporting of discrimination and that ensure the rights of NDSU students, employees, and all other participants in its educational programs and activities are protected.

2. DEFINITIONS

- 2.1 **Discrimination** – Different or unequal treatment of an individual (or group), based on one or more of the protected classes of the individual (or group), except as where permitted or required by law, that negatively affects their education, employment, or other participation in educational programs or activities.
 - 2.1.1 Protected classes for purposes of these procedures are: age, color, gender expression/identity, genetic information, marital status, national origin, physical or mental disability, pregnancy, public assistance status, race, religion, sex, sexual orientation, spousal relationship to current employee, status as a U.S.

veteran, or participation in lawful activity off NDSU's premises during nonworking hours, which is not in direct conflict with the essential business-related interests of NDSU. (See [NDSU Section 100, Equal Opportunity and Non-Discrimination Policy](#)).

2.2 **Discrimination/~~harassment/retaliation~~ complaint** – A complaint alleging discrimination in violation of NDSU's Equal Opportunity and Non-Discrimination Policy, including complaints of ~~discrimination~~, harassment, or retaliation.

2.3 **Harassment** - A form of discrimination; unwelcome oral, written, graphic, or physical conduct, based on one or more of the protected classes (see 2.1.1) of an individual (or group), that is sufficiently severe, persistent, or pervasive so as to unreasonably interfere with their education, employment, or other participation in educational programs or activities or that creates a working, learning, or educational program or activity environment that a reasonable person would find hostile, intimidating, or abusive. Harassment may include, but is not limited to the following, when a part of conduct that meets the standard set forth above: threats, physical contact or violence, offensive jokes, insults or put-downs, slurs or name calling, vandalism/graffiti, or offensive objects or pictures. Petty slights, annoyances, and isolated incidents (unless very serious) typically do not rise to the level of harassment.

3. FILING A DISCRIMINATION/~~HARASSMENT/RETALIATION~~ COMPLAINT

3.1 Current or former NDSU students or employees, applicants for admission or employment, or any other participants in NDSU's educational programs or activities, or any group thereof, are encouraged to file a complaint if they believe ~~there has been a violation of they have been discriminated against in violation of~~ NDSU's Equal Opportunity and Non-Discrimination Policy, which may include a complaint of ~~discrimination~~, harassment, or retaliation. A complaint may be filed concerning alleged discriminatory, ~~harassing, or retaliatory~~ conduct that occurred on NDSU's premises or off campus.

3.1.1 **How to file a discrimination/~~harassment/retaliation~~ complaint** - A ~~discrimination~~ complaint is initiated by completing a NDSU Discrimination/Harassment/Retaliation Complaint Form (Complaint Form) and filing it with the Equal Opportunity and Title IX Compliance Director. The Complaint Form is available online at https://www.ndsu.edu/equity/filing_a_report_or_complaint/ and then ~~by~~ clicking on File a Complaint or by contacting the Equal Opportunity and Title IX Compliance Office in Old Main 201, NDSU Main Campus, Fargo, ND 58108, 701-231-7708, ndsu.eoaa@ndsu.edu. The Equal Opportunity and Title IX Compliance Office is available to assist with completing the Complaint Form as needed.

The Equal Opportunity and Title IX Compliance Office will investigate all discrimination, harassment, retaliation, and sexual misconduct complaints involving employees utilizing the procedures set forth in this policy and will coordinate the resolution of those complaints.

The Equal Opportunity and Title IX Compliance Office may delegate discrimination, harassment, retaliation, and sexual misconduct complaints to another appropriately trained individual or office as needed if the complaint identifies an alleged violation by a student. The resolution of the complaint, including pre-hearing, hearing and appeals, will be conducted by the Dean of Students Office, in coordination with the Equal Opportunity and Title IX Compliance Office, pursuant to <https://www.ndsu.edu/fileadmin/policy/601.pdf>. ~~NDSU Policy 601~~. Additionally, the Equal Opportunity and Title IX Compliance Office may delegate discrimination,

harassment, retaliation, and sexual misconduct complaints to Human Resources if the complaint identifies an alleged violation by a staff member.

- 3.1.2 **Deadline for filing a discrimination/harassment/retaliation complaint** - NDSU encourages those who believe ~~there has been a policy violation they have been discriminated against~~ to file a ~~discrimination~~ complaint as soon as possible.
- 3.1.3 **Confidentiality cannot be guaranteed** - Depending on the nature of the ~~discrimination~~ complaint, NDSU will keep the complaint and its investigation confidential to the extent that it is possible. However, confidentiality cannot be guaranteed under these procedures as NDSU may have an obligation to take specific actions once aware of alleged ~~discriminatory~~ conduct.
- 3.1.4 **Confidential support resources** - If seeking a confidential resource, NDSU students may contact the NDSU Counseling Center at 212 Ceres Hall, NDSU Main Campus, 701-231-7671; ~~and the Student Health Service,~~ (Wallman Wellness Center, NDSU Main Campus, 701-231-7331); ~~or Sexual Assault Prevention and Advocacy, Wallman Wellness Center, NDSU Main Campus, 701-231-5733.~~ NDSU employees may contact ~~the Faculty/Staff Assistance Program, as described in NDSU Section 134,~~ ~~is a confidential resource for NDSU employees.~~ Additionally, the Ombudsperson is a confidential resource for NDSU faculty and NDSU graduate students. The Ombudsperson may be contacted at the NDSU Main Library, ~~NDSU Main Campus, Lower Level, Room 20C, 701-231-5114,~~ ~~or kristine.paranica@ndsu.edu.~~
- 3.1.5 **Anonymous reporting** - NDSU students, faculty, and staff may submit an anonymous form to report acts of bias, bigotry, or hate at NDSU. NDSU may be limited in its ability to respond to a report if it is submitted anonymously. Additionally, in very limited circumstances, NDSU may need to take action to learn the identity of an individual who submitted an anonymous report. For more information, see https://www.ndsu.edu/equity/filing_a_report_or_complaint/

4. RETALIATION PROHIBITED

- 4.1 NDSU encourages reporting of discrimination, ~~harassment, and retaliation~~ and will not discipline any individual (or group) who makes a good faith report ~~of discrimination~~. Any individual (or group) reporting discrimination ~~or harassment,~~ or otherwise participating in these procedures is entitled to protection from retaliation as a result of their activity under these procedures. Retaliation may include, but is not limited to, intimidation, harassment, reprisal, or other negative changes in education or employment. Anyone who believes they have been retaliated against for their participation under these procedures is encouraged to file a Complaint Form, which will be processed under these procedures as a separate matter from the originally filed ~~discrimination~~ complaint, if any. Anyone found responsible for retaliation will be subject to disciplinary action, up to and including termination or expulsion.

5. ~~SUPPORTIVE REMEDIAL~~ MEASURES

- 5.1 Upon receipt of a ~~discrimination~~ complaint or as otherwise informed of allegations ~~of discrimination~~ under these procedures, NDSU will, where appropriate, take reasonable steps to remedy the harm to those affected by discriminatory, ~~harassing, or retaliatory~~ conduct. ~~Remedial Supportive~~ measures may include, but are not limited to, a no contact directive, a safety plan, residence modifications, academic modifications and support, work schedule and/or location modifications, parking modifications, referral to counseling or other health

services, administrative leave, temporary suspension, or any other measure deemed appropriate by NDSU.

6. PRELIMINARY EVALUATION OF DISCRIMINATION/~~HARASSMENT/RETALIATION~~ COMPLAINT

6.1 **Preliminary evaluation determination** - The Equal Opportunity and Title IX Compliance Director will evaluate the ~~discrimination~~ complaint and decide to either: (1) pursue further action; or (2) dismiss the ~~discrimination~~ complaint. A ~~discrimination~~ complaint may be dismissed if: (1) it fails to allege any facts that suggest discrimination, harassment, or retaliation; or (2) an appropriate resolution or remedy has already been achieved. NDSU will not dismiss a complaint because it alleges ~~the discriminatory~~ conduct that took place off campus. Rather, in the course of its investigation of the complaint, NDSU will determine whether the alleged off-campus conduct: (1) occurred within the context of an educational program or activity; and/or (2) has created or reasonably may create a hostile educational or work environment.

Unless there are extenuating circumstances, the preliminary evaluation will be completed within three ~~(3)~~ business days of receipt of the ~~discrimination~~ complaint and the decision will be provided in writing to the individual (or group) who filed the complaint. If the Equal Opportunity and Title IX Compliance Director requires further information ~~from the individual (or group) who filed~~ regarding the ~~discrimination~~ complaint before making a decision, the decision will be made within three ~~(3)~~ business days of receipt of the additional information requested. In the case of a dismissal, the Equal Opportunity and Title IX Compliance Director may provide information or guidance regarding other avenues for support or resolution of the complaint, if appropriate and available.

If the complaint is dismissed, the Reporting Party may submit a request for reconsideration of the complaint within three ~~(3)~~ business days of receipt of the ~~P~~reliminary ~~E~~valuation ~~D~~etermination. The Reporting Party may submit additional documentation or information that supplements the original complaint. This may include, but is not limited to, additional evidence or names of witnesses. Complaints resubmitted with no additional information will not be reviewed for reconsideration. Submit all reconsiderations to the Equal Opportunity and Title IX Compliance Director or by contacting the Equal Opportunity and Title IX Compliance Office in Old Main 201, NDSU Main Campus, 701-231-7708, ndsuoaa@ndsuo.edu. As needed, the Equal Opportunity and Title IX Compliance Office is available to facilitate finding a resource to assist the party with completing a request for reconsideration.

6.2 **~~Notice of Investigation and Allegations (NOIA)- Notice of action~~**— If the Equal Opportunity and Title IX Compliance Director determines that further action on a ~~discrimination~~ complaint is warranted, the Equal Opportunity and Title IX Compliance Office will provide written notice to the individual (or group) who filed the ~~discrimination~~ complaint and the individual (or group) against whom the complaint was filed (collectively, the Parties) within three ~~(3)~~ business days of the determination made pursuant to 6.1 unless there are extenuating circumstances that delay the proposed timeline. The written notice will include, at a minimum: (1) the names of the Parties; (2) the basis for the ~~discrimination~~ complaint; (3) a statement that retaliation is prohibited; (4) a statement that requested responses or documentation must be provided in a timely manner; and (5) a description of the resolution process, including a copy of the relevant procedures. A modified ~~NOIA notice of action~~ may also be provided to an administrator, supervisor, or the Dean of Students Office who has control over the environment in which the alleged ~~discriminatory~~ conduct took place. The intent of the modified ~~NOIA notice of action~~ is to preserve confidentiality to the extent

possible while also putting the administrator, supervisor, or Dean of Students Office on notice of their responsibility to monitor for retaliation or further discrimination or harassment.

In situations where additional information, which was not available at the time the NOIA Notice of Action was issued, the Equal Opportunity and Title IX Compliance Director may dismiss the complaint if the additional information indicates the complaint (1) fails to allege any facts that suggest discrimination, harassment, or retaliation; or (2) an appropriate resolution or remedy has already been achieved. Additionally, the complaint may only be dismissed if an informal or formal resolution has not commenced. If the complaint is dismissed, the Reporting Party may submit a request for reconsideration of the complaint within three (3) business days of receipt of the NOIA Notice of Action. The Reporting Party may submit additional documentation or information that supplements the original complaint. This may include, but is not limited to, additional evidence or names of witnesses. Complaints resubmitted with no additional information will not be reviewed for reconsideration.

7. INFORMAL RESOLUTION

- 7.1 **Informal resolution defined** - Informal resolution is a process in which the Parties attempt to agree upon the resolution of a discrimination complaint without a comprehensive investigatory and determination process. Unless there are extenuating circumstances, the entire informal resolution process will be completed within 30 calendar days of its initiation.
- 7.2 **Informal resolution is optional** - When providing the NOIA notice of action to the Parties, the Equal Opportunity and Title IX Compliance Office may inquire if the Parties are interested in attempting to resolve the discrimination complaint through informal resolution. The Parties will have three (3)-business days to individually decide if they would like to use informal resolution and should inform the Equal Opportunity and Title IX Compliance Office of their decisions in writing. The informal resolution process will only be used upon mutual agreement of the Parties. Either party may inform the Equal Opportunity and Title IX Compliance Office at any time that they want to discontinue their participation in the informal resolution process and the formal resolution process will commence. The Equal Opportunity and Title IX Compliance Director reserves the right to deny the Parties the option of using the informal resolution process if it is deemed to be inappropriate or inadequate as applied to a particular discrimination complaint.
- 7.3 **Informal resolution process** - Informal resolution may involve the Equal Opportunity and Title IX Compliance Office, the Dean of Students Office, HR, administrators, supervisors, and/or external moderators working with the Parties to arrive at an appropriate and mutually agreeable resolution of the discrimination complaint. The informal resolution process will not require that the Parties meet face-to-face to resolve the discrimination complaint but may allow it, depending on the nature of the complaint and the power differential between the Parties.
- 7.4 **Informal resolution agreement** - If the Parties resolve the discrimination complaint through the informal resolution process, the Equal Opportunity and Title IX Compliance Office or designee will draft an informal resolution agreement, which the Parties will sign. A signed copy of the informal resolution agreement will be provided to the Parties, as well as to any administrator, or supervisor provided with a modified NOIA notice of action as described in 6.2. There is no available appeal of a signed informal resolution agreement.

8. FORMAL RESOLUTION

- 8.1 **Formal resolution applicability** - The formal resolution process will commence if: (1) either party elects to use the formal resolution process instead of the informal resolution process; (2) the Parties are unable to mutually agree upon a resolution under the informal resolution process; or (3) the Equal Opportunity and Title IX Compliance Director determines the informal resolution process is inappropriate or inadequate as applied to a particular **discrimination** complaint.
- 8.2 **Comprehensive investigation** – A properly trained investigator(s) will conduct a comprehensive investigation under the formal resolution process in an adequate, reliable, and impartial manner. Unless there are extenuating circumstances, including when the Parties are unable to mutually agree upon a resolution under the informal resolution process, a comprehensive investigation will commence within **five (5)** business days of providing the **NOIA notice of action** to the Parties as described in 6.2. A comprehensive investigation will include the following steps, as relevant and available:
- (1) An interview with each of the Parties;
 - (2) Interviews with witnesses identified by the Parties or determined otherwise;
 - (3) A review of evidence provided by the Parties or collected otherwise; and
 - (4) An opportunity for the parties to submit questions of each other and/or the witnesses. Upon receipt of any such questions, the investigators will determine which questions, if any are relevant, and present them to the intended recipient for a response.

Equal opportunity will be given to the Parties to access and present evidence during the investigation. The Parties will be provided with periodic status updates throughout the course of the investigation.

- 8.3 **Investigator(s)** - A staff member(s) in the Equal Opportunity and Title IX Compliance Office may conduct the comprehensive investigation of the **discrimination** complaint or the Equal Opportunity and Title IX Compliance Director may delegate investigative duties to another properly trained investigator(s). Within three **(3)** business days of notice of the identity of an investigator(s), either party may provide the Equal Opportunity and Title IX Compliance Director with a written request asking that another investigator(s) be assigned if the party believes there is a conflict of interest with the investigator(s). Where appropriate, a new investigator(s) will be assigned and the Equal Opportunity and Title IX Compliance Director will provide the Parties with written notice of the newly assigned investigator(s).
- 8.4 **Responsibilities of the Parties** – Deadlines for completing actions under these procedures will be communicated in writing to the Parties, who must make every effort to comply with the deadlines communicated to them. Timeliness is particularly important under the formal resolution process as determinations may be made based on available information if a party fails to respond in a timely manner to action requested by an investigator(s). In extenuating circumstances, an extension to a deadline may be granted by the Equal Opportunity and Title IX Compliance Director and will be communicated in writing to the Parties.
- 8.5 **Standard of proof** – In all cases, the applicable standard of proof for determining responsibility for an alleged violation is “preponderance of the evidence” – meaning, in order for an individual (or group) against whom a **discrimination** complaint was filed to be held responsible for discrimination, **harassment, or retaliation**, it must be determined that it

is *more likely than not* that the individual (or group) violated NDSU's Equal Opportunity and Non-Discrimination Policy, which may include discrimination, harassment, or retaliation.

In cases involving an alleged violation by an employee, the determination of responsibility shall be made by the investigator(s).

In cases involving an alleged violation by a student, the determination of responsibility shall be made by the Hearing Officer, consistent with the procedures detailed in <https://www.ndsu.edu/fileadmin/policy/601.pdf>. ~~NDSU Policy 601.~~

8.6 Preliminary Investigative Report – After an investigator(s) has finished the comprehensive investigation of a discrimination complaint, the investigator(s) will draft a Preliminary Investigative Report.

For complaints involving an alleged violation by a student, the report shall include the findings of the investigation along with a recommendation for dismissal of the complaint or a recommendation of pursuing action. If there is reasonable cause to believe that a violation has occurred, the recommendation shall be to pursue action; if such reasonable cause is not present, the complaint shall be dismissed. Reasonable cause is a lower standard than preponderance of the evidence, and shall mean that there are just or legitimate grounds to believe that a violation has occurred.

For all other complaints, the report shall include the findings of the investigation along with a determination whether the individual (or group) against whom the discrimination complaint was filed is responsible for discrimination, including harassment, or retaliation.

The report will also include, at a minimum, a summary of the relevant information gathered during interviews and otherwise that informed the preliminary investigation. Unless there are extenuating circumstances, the report will be drafted within 90 calendar days or a reasonable amount of time after initiation of the comprehensive investigation. If the report is not completed within 90 days, the Investigator will notify Parties and communicate the reason for the delay. The report will be provided to the Parties and, if applicable, a Review Committee as determined by the Equal Opportunity and Title IX Compliance Office (see 8.7). The Parties will have five (5) business days from receipt of the report to respond to the Preliminary Investigative Report and/or any information found in the report in writing. Parties may request an extension, which may or may not be granted. As needed, the Equal Opportunity and Title IX Compliance Office is available to facilitate finding a resource to assist a party with putting its response in writing.

8.7 Review Committee – A Review Committee, at the discretion of the Equal Opportunity and Title IX Compliance Office, may be utilized to provide feedback on the Preliminary Investigative Report. Unless there are extenuating circumstances, a Review Committee will meet within 10 calendar days of issuance of the Preliminary Investigative Report in order to finalize the investigative report. The Review Committee will be comprised of no fewer than three (3) properly trained NDSU faculty or staff members that do not have a conflict of interest with the Parties. The Review Committee will be created by the Equal Opportunity and Title IX Compliance Director with attention to diversity and representation. If a party believes there is a conflict of interest with a member(s) of the Review Committee, the party should follow the procedures and deadline established in 8.3 to dispute the member(s). Prior to meeting, Review Committee members will review the Preliminary Investigative Report and any written response to the report made by the Parties. The Review Committee may ask the investigator(s) who issued the Preliminary Investigative Report to be

available during their meeting in order to answer questions related to the investigation and to provide access to documentation in the investigative file as needed. In limited circumstances, the Review Committee may request that the investigator(s) gather additional information if the committee decides it cannot make a recommendation without the additional information. In that case, each party will be provided with the additional information gathered and will have the opportunity to respond to it in writing.

- 8.8 **Final Investigative Report** – Upon completion of any feedback provided by a Review Committee, the preliminary investigation report will become the Final Investigative Report. For complaints involving an alleged violation by a student, the final report shall be provided to the Dean of Students Office along with a recommendation for dismissal of the complaint or a recommendation of pursuing action. If there is reasonable cause to believe that a violation has occurred, the recommendation shall be to pursue action; if such reasonable cause is not present, the complaint shall be dismissed.

The Final Investigative Report for employees will include recommended disciplinary action, if any, in addition to a finding as to whether, discriminatory conduct, including harassment, or retaliatory conduct occurred. The Final Investigative Report as well as notice of the right to appeal for employees as afforded in 8.12, will be provided in writing to the Parties.

- 8.9 **Disciplinary action for discriminatory conduct** – NDSU does not tolerate discrimination, including harassment, or retaliation, and will take appropriate disciplinary action against anyone found responsible for discrimination. Students found responsible for discrimination under the procedures in <https://www.ndsu.edu/fileadmin/policy/601.pdf> ~~Rights and Responsibilities of Community: A Code of Student Conduct (Section 601)~~ will be subject to disciplinary action, up to and including expulsion. Employees found responsible for discrimination under these procedures will be subject to disciplinary action, up to and including termination. The disciplinary action recommended by the Review Committee will depend on the severity of the discriminatory conduct and whether the individual (or group) was previously found responsible for discrimination, harassment, or retaliation.

- 8.10 **Imposition of disciplinary action** – If neither party exercises the right to appeal as afforded in 8.12, the Equal Opportunity and Title IX Compliance Director will either: (1) notify any administrator or supervisor provided with a modified ~~NOIA notice of action~~ as described in 6.2 that the matter has been resolved without recommended disciplinary action; or (2) provide the Final Investigative Report to the appropriate administrator, or supervisor, whether previously provided a modified ~~NOIA notice of action~~ as described in 6.2 or otherwise, and consult with the administrator or supervisor regarding imposition of the recommended disciplinary action. If either party exercises the right to appeal, (1) or (2) will be conducted by the Equal Opportunity and Title IX Compliance Director once the appeal process has concluded.

Disciplinary action will be imposed for employees by the appropriate administrator or supervisor on behalf of NDSU. If the administrator or supervisor disagrees with the recommended disciplinary action, the administrator or supervisor must provide a basis for disagreement in writing to the Equal Opportunity and Title IX Compliance Director within three (3) business days of receipt of the Final Investigative Report.

- 8.11 **Conclusion of formal resolution** – The formal resolution process shall be carried out using reasonably prompt time frames and without deliberate indifference pursuant to these procedures and any applicable NDSU policies.

8.12 **Appeal of investigative report** – Within **five (5)** business days of receipt of the investigative report either party may appeal the report by completing a NDSU **Discrimination** Appeal Form (Appeal Form) and filing it with the Equal Opportunity and Title IX Compliance Director. The Appeal Form is available online at https://www.ndsu.edu/equity/filing_a_report_or_complaint/ and clicking on Discrimination/Harassment/Retaliation/Sexual Misconduct Appeal Form or by contacting the Equal Opportunity and Title IX Compliance Office in Suite 201, Old Main, NDSU Main Campus, 701-231-7708, ndsu.eoaa@ndsu.edu. The Appeal Form can be submitted via email at ndsu.eoaa@ndsu.edu or by bringing it to the Equal Opportunity and Title IX Compliance Office. As needed, the Equal Opportunity and Title IX Compliance Office is available to facilitate finding a resource to assist a party with completing the Appeal Form.

The grounds upon which a party can request an appeal are: (1) the recommended disciplinary action is substantially disproportionate to the findings; (2) procedural error led to an improper investigative report; and/or (3) new evidence that was previously unavailable should be considered as it could have had a significant impact on the investigative report. If an appeal is granted by the Equal Opportunity and Title IX Compliance Director under (3), the Equal Opportunity and Title IX Compliance Director will require that the Review Committee meet again to determine if the investigative report should be altered in light of the new evidence. The party who did not provide the new evidence will have the opportunity to respond to the evidence in writing. If the investigative report is altered under (3), the Parties will be afforded the opportunity to appeal again under (1) and/or (2) within 5 business days of receipt of the altered investigative report. If an appeal is granted under (1) or (2), the Equal Opportunity and Title IX Compliance Director will evaluate the investigative report in an impartial manner in light of the information found in the Appeal Form and will alter or reaffirm the investigative report accordingly. Unless there are extenuating circumstances, the appeal process will be completed within 10 business days of submission of the Appeal Form and the results will be provided in writing to the Parties. In cases in which there is a conflict of interest, such as when the grounds for appeal involve action taken by the Equal Opportunity and Title IX Compliance Director, the Vice Provost for **Student Affairs and Institutional Equity** ~~Faculty Affairs and Equity~~ will conduct the appeal process.

9. INTERSECTION WITH OTHER RELEVANT NDSU POLICIES

- 9.1 The procedures described above do not eliminate the rights of a party to participate subsequently in pre-disciplinary action review and/or an appeal as afforded elsewhere under NDSU policy. Furthermore, for purposes of these procedures, an appeal process available to the individual (or group) against whom a **discrimination** complaint was filed must be available to the individual (or group) who filed the **discrimination** complaint.
- 9.2 **Nonbanded, nonacademic staff** – The applicable policy for nonbanded, nonacademic staff regarding subsequent pre-disciplinary action review and/or an appeal is NDSU [Section 183, Nonrenewal and Dismissal of Nonbanded, Nonacademic Staff](#).
- 9.3 **Regular staff employees** – The applicable policies for regular staff employees regarding subsequent pre-disciplinary action review and/or an appeal are NDSU [Section 220, Staff Job Discipline/Dismissal](#) and NDSU [Section 231, Appeal Procedure for Disciplinary and Reduction in Force Actions](#).
- 9.4 **Faculty** – The applicable policies for faculty regarding subsequent pre-disciplinary action review and/or an appeal are NDSU [Section 350.3, Board Regulations on Nonrenewal](#).

[Termination or Dismissal of Faculty](#) and NDSU [Section 350.4, Board Regulations on Hearings and Appeals](#).

10. NOTICE OF MANDATORY REPORTING RESPONSIBILITIES AND TRAINING

10.1 It is the responsibility of the entire university community to foster a safe and non-discriminatory learning, living, and working environment. NDSU employees have specific responsibilities when they observe discrimination, [harassment, or retaliation](#) or receive a report of discrimination, [harassment, or retaliation](#). NDSU employees must not dissuade an individual (or group) from providing them with a report ~~of discrimination~~ but should inform the individual (or group) of their mandatory reporting responsibilities as described below.

10.1.1 **Observance of discrimination/[harassment/retaliation](#)** – All NDSU employees who observe discrimination, including harassment or retaliation, must document the discrimination and contact the Equal Opportunity and Title IX Compliance Office in accordance with 10.2.

10.1.2 **Report of discrimination/[harassment/retaliation](#)** – All NDSU employees who receive a report ~~of discrimination~~ *involving a student*, including harassment or retaliation, must document the report and contact the Equal Opportunity and Title IX Compliance Office in accordance with 10.2. NDSU supervisors, managers, department heads, deans, directors, or administrators who receive a report ~~of discrimination~~ *involving employees*, including harassment or retaliation, must document the report and contact the Equal Opportunity and Title IX Compliance Office in accordance with 10.2. The provisions of 10.1.2 do not apply to confidential support resources providing services as described in 3.1.4.

10.2 To comply with 10.1.1 or 10.1.2, NDSU employees must promptly complete and submit an NDSU Discrimination/Harassment/Retaliation Report Form (~~Report Form~~) to the Equal Opportunity and Title IX Compliance Director. The Report Form is available online at https://www.ndsu.edu/equity/filing_a_report_or_complaint/ and ~~by~~ clicking on File a Report or by contacting the Equal Opportunity and Title IX Compliance Office in Suite 201, Old Main, NDSU Main Campus, 701-231-7708, ndsu.eoaa@ndsu.edu. The Equal Opportunity and Title IX Compliance Office can assist with completing the Report Form as needed. The Equal Opportunity and Title IX Compliance Office is the official university record holder for documentation under these procedures.

10.3 Upon receipt of a Report Form, NDSU will initiate its ~~discrimination complaint~~ procedures to determine if the affected parties wish to pursue a formal complaint.

10.4 **Mandatory training** - All new NDSU employees must complete in-person ~~E~~equal ~~O~~ppportunity/~~Title IX -and non-discrimination~~ training within 60 days of their employment start date. Additionally, all fulltime employees must complete ~~in-person-E~~equal ~~O~~ppportunity/~~Title IX -and non-discrimination~~ training every ~~three years~~ thereafter. In addition to mandatory training, employees are encouraged to contact the Equal Opportunity and Title IX Compliance Office with any questions they may have related to equal opportunity and non-discrimination at NDSU, including inquiries regarding their responsibilities as mandatory reporters. If a new or fulltime employee does not complete this required training, the employee will not be eligible for salary adjustments until this required training is completed per [NDSU Policy 129: Salary Administration](#). Training compliance is tracked by the Equal Opportunity and Title IX Compliance Office. For questions regarding training compliance, please call 701-231-7088 or email ndsu.eoaa@ndsu.edu.

11. DISCRETIONARY INVESTIGATION

- 11.1 The Equal Opportunity and Title IX Compliance Office reserves the right to initiate an investigation under these procedures at its discretion in the absence of a **discrimination** complaint or report **of discrimination** in order to fulfill NDSU's commitment to taking action to stop discrimination, **harassment, or retaliation**, remedy its effects, and prevent its recurrence.

12. FILING WITH AN EXTERNAL AGENCY

- 12.1 An individual (or group) also has the right to file a **discrimination** complaint with one or more of the following external agencies. Please note that these agencies have their own deadlines for filing a **discrimination** complaint. Please contact the agencies directly for more information about applicable deadlines.

National Science Foundation (NSF)

Phone: 703-292-8020

TTD: 800-281-8749

programcomplaints@nsf.gov

https://nsf.gov/pubs/policydocs/pappg20_1/pappg_11.jsp#XIA

National Institutes of Health (NIH)

Phone: 301-480-6701

TTY: 301-402-9612

granteeharassment@nih.gov

<https://grants.nih.gov/grants/policy/harassment/actions-oversight/allegation-process.htm>

North Dakota Department of Labor and Human Rights

Phone: 1-800-582-8032

TTY: 1-800-366-6888

humanrights@nd.gov

www.nd.gov/labor

U.S. Department of Education

Office for Civil Rights

Phone: 1-800-421-3481

TDD: 1-800-877-8339

OCR@ed.gov

www2.ed.gov/ocr

U.S. Equal Employment Opportunity Commission

Phone: 1-800-669-4000

TTY: 1-800-669-6820

info@eeoc.gov

www.eeoc.gov

HISTORY:

New	December 20, 1977
Amended	September 1993
Amended	January 1996
Amended	June 2000
Amended	October 2007
Housekeeping	September 2009

Amended	March 16, 2010
Housekeeping	February 14, 2011
Amended	April 25, 2016
Housekeeping	May 20, 2016
Amended	August 22, 2017
Housekeeping	February 6, 2019
Amended	March 15, 2021
Amended	March 29, 2022
Amended	January 4, 2023
Amended	September 13, 2023