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## Code of Student Life

### I. Introduction to the *Code of Student Life*

The University of North Dakota (University) welcomes you to its community of more than 15,000 students, faculty, and staff. Our University community is made up of individuals representing the rich diversity and heritage of the populations of North Dakota, the nation, and the world. The University is ideally suited to make campus life a positive educational experience through the sharing of a multitude of ideas, experiences, life styles, cultures, and beliefs.

The mission of the University is to provide transformative learning, discovery, and community engagement opportunities for developing tomorrow's leaders.

As part of its mission, the University intends to nurture and sustain a learning environment which permits all to learn from the diversities brought to campus by members of the University community.

To strengthen the sense of community at the University, we affirm the following:

1. That everyone be allowed to work, learn, and live in a safe, caring environment.
2. That everyone learn about, understand, appreciate, and respect varied cultures.
3. That everyone matters.
4. That all individuals be respected and treated with dignity and civility.
5. That everyone continue to share in the responsibility of making UND a better place.

The *Code of Student Life* (*Code*) outlines the rights and responsibilities enjoyed by the students who make up our University community. The purpose of the information contained in the *Code* is to promote and maintain a learning environment appropriate for an institution of higher education and to serve as a basic guide to help prevent abuse of the rights of others. Members of the University community are expected to be familiar with the policies and processes contained within the *Code* and to act in compliance with them at all times. The *Code* is intended to be a general handbook to give guidance and

direction to members of a very diverse University community. Although it is not possible to cover every conceivable situation that might arise, specific questions relating to the *Code* may be directed to the Office of Student Rights & Responsibilities (OSRR) or the Office of the Vice President for Student Affairs.

Nothing within the *Code* is intended to limit or restrict freedom of speech or peaceful assembly. General statements of philosophy and principles to which the University subscribes are found in the State Board of Higher Education (SBHE) statement of academic freedom ([SBHE 401.1](#)).

The *Code* is published periodically and is subject to amendment or revision. The *Code* published online at <http://und.edu/code-of-student-life/> is the current version in use by the University. Members of the University community are encouraged to submit proposed amendments or revisions to the *Code of Student Life* Review Committee (CSLR Committee) for consideration.

## A. Authority

The authority for student discipline, also referred to as student conduct, is derived from the president, who has delegated authority to the vice president for student affairs (VPSA). The VPSA further delegates authority to the dean of students. The dean of students administers the policies, procedural rules, and programs for student conduct hearings consistent with provisions of the *Code*, federal and state laws, and University and SBHE policies.

The dean of students may further delegate the authority for student conduct and appoint individuals to serve as student conduct administrators (SCA).

SCAs are the individuals identified or appointed by the University to manage the student conduct process, conduct an investigation, or serve as a decision-maker. Identified SCAs include members of the OSRR staff, members of the Equal Opportunity & Title IX staff, and Housing staff responsible for the daily operation of the residence hall and apartment communities.

The VPSA is the final authority for interpretation or application of the *Code*.

Student behavior may also be subject to academic standards, review, and actions in accordance with expectations that are established by an academic program in which the student participates.

## B. Jurisdiction

University disciplinary proceedings may be instituted against a student charged with conduct that potentially violates federal, state, or local laws, ordinances, or regulations and/or the *Code* (that is, if both possible violations result from the same factual situation) without regard to pending civil or criminal litigation, criminal arrest, or prosecution. Proceedings under the *Code* may be carried out prior to, simultaneously with, or following civil or criminal proceedings at the discretion of the dean of students or designee.

Determinations made or sanctions imposed under the *Code* will not be changed solely because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the student.

Each student is responsible for their conduct from the time of application for admission through the

actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if the student's conduct is not discovered until after a degree is awarded). The *Code* applies to a student's conduct even if the student withdraws from school while a disciplinary matter is pending.

The dean of students or designee will determine whether the *Code* will be applied. The dean of students or designee may also determine not to apply the *Code* to the conduct of a student filing a complaint or participating in the investigation of a complaint.

If a complaint alleges that a violation occurred while a previous version of the *Code* was in effect, the alleged behavior will be evaluated based upon the version of the *Code* and/or applicable policies that were in effect at the time of the alleged violation. The student conduct process in effect at the time that the complaint is filed will be utilized.

## **C. Code Development & Amendment Process**

The *Code* is published online and is subject to periodic amendment and revision. On an as-needed basis, the dean of students will make routine (such as new contact names, department names, position titles, and e-mail or Web addresses) and required (such as changes in federal law, state law, and state board policy) changes to the *Code*. The date of such changes will be noted on the revision record. Routine updates will not require endorsement through the *Code* review process. All other changes to any portion of the *Code* will be made through the utilization of the *Code* Review Process.

### **1. Code Review Process**

The *Code of Student Life Review* (CSLR) Committee is an advisory group responsible for reviewing and recommending amendments and revisions to the *Code*. The CSLR Committee is chaired by the dean of students and comprised of representatives from the following areas:

- a. OSRR,
- b. Equal Opportunity & Title IX,
- c. Association of Residence Halls (ARH),
- d. General Counsel,
- e. Interfraternity Council,
- f. Panhellenic Council,
- g. Student Government,
- h. Director, Student Diversity and Inclusion,
- i. University Police Department (UPD),
- j. University Senate, and
- k. Additional members chosen by the committee.

CSLR Committee members will be selected annually, serve one academic year and will meet on an as-needed basis.

When the CSLR Committee has provided its final feedback regarding recommended amendments and revisions to the *Code*, the dean of students or designee will determine which amendments and revisions will move forward.

The dean of students or designee will present the proposed changes to the University Senate Executive Committee (SEC) for review and feedback. The SEC provides leadership for the senate, ensures that University Senate policies are implemented, and acts as a liaison between the University Senate, the University of North Dakota, and the North Dakota University System.

The dean of students or designee will present the proposed *Code* changes to the Policy Advisory Group (PAG) for review. PAG is a standing committee with broad University representation that is appointed by the vice president for finance and operations. PAG is charged with assisting in the formulation of new policies, the revisions of existing policies, and recommending review and endorsement to the Executive Council.

The Policy Office, responsible for PAG oversight, will post the proposed *Code* changes to its website for a minimum two-week campus comment period. The CSLR Committee will consider all feedback and determine whether and how these responses will be incorporated.

If the feedback results in substantial changes, the proposed *Code* will be represented to the members of PAG and posted for a second campus comment period. The CSLR Committee will again consider all feedback and determine whether and how these responses will be incorporated.

The PAG will review all final proposed revisions and amendments to the *Code* and will submit them to the Executive Council for endorsement. The president will have final approval.

If the president approves the changes, the dean of students or designee will update the *Code* and communicate the final changes to the University community through a formal announcement. If the president does not approve the changes and recommends additional edits, the dean of students or designee and CSLR Committee will coordinate appropriate edits and additional reviews as necessary prior to returning the changes to the Executive Council for further review and subsequent approval by the president. If the president does not approve the changes, no changes will be made and the *Code* will stand unamended.

## 2. Policy Development Authority in University Residences

The director of housing & residence life is responsible for the operations of residence halls and university apartments (university residences). Housing staff are responsible for providing a residential environment which is conducive to students' academic success. Policies for university residences may be developed in addition to those in the *Code*. All university residence policies go through the residence hall government and policy development process.

Residence Hall Government and Policy Development Process:

- a. Residence policies are clarified by the appropriate channels through the Housing & Residence Life Office and are subject to the review and approval of the VPSA and the president,
- b. The occupants of each residence hall, by merit of paying ARH fees, are members of their

- respective hall government and of ARH,
- c. ARH may recommend or endorse rules governing life within the residence halls. ARH is not the approval body for rules governing the residence halls. Proposed rules endorsed by various hall governments may be considered by ARH, and
  - d. Recommended rules endorsed by ARH are subject to approval by the director of housing & residence life or designee and/or through the appropriate university policy review and approval processes.

### **3. Temporary & Provisional Changes to the Code**

All policies and procedures within the *Code* are intended to be consistent with state and federal laws and regulations and University and SBHE policies. As such, modifications to the *Code* may be made on a temporary or provisional basis to ensure consistency with all laws, regulations, and policies. Temporary or provisional changes to the *Code* are approved by the president or designee.

### **4. Mandatory Student Trainings**

The CSLR Committee is responsible for reviewing and making recommendations to the President and the Executive Council regarding proposed mandatory student trainings. The President may require mandatory student trainings. Mandatory student trainings include trainings that all students, or a substantial subset of students, must complete. For purposes of this section of the *Code*, mandatory student trainings do not include trainings required of students to participate in a specific course, program, or educational opportunity.

## **II. General University Policies, Regulations, & Prohibited Acts**

The *Code* defines the rights and responsibilities that students have as members of the academic community.

All students are expected to maintain an appropriate standard of conduct. The *Code* applies to students online, on-campus, and off-campus.

Appropriate conduct in a community of scholars includes obeying the law, showing respect for authority, meeting contractual obligations, honestly communicating with the University, and maintaining integrity and individual honor in scholastic work.

A student is expected to be responsible for their actions whether acting individually or in a group. The term student includes both a student acting as an individual and to students acting in a group and/or a student organization, unless otherwise noted.

Any attempted act that, if completed, would constitute a violation of the *Code* will be treated as a completed act.

SCAs may initiate the student conduct process if a student engages in or is alleged to have engaged in any of the following:

## A. Violations of Criminal or Civil Law

Behavior that may constitute a violation of federal, state, or local laws, ordinances, or regulations.

## B. Acts of Dishonesty

Including, but not limited to:

1. **Academic Dishonesty.** Academic dishonesty includes, but is not limited to, cheating, plagiarism, and collusion. Students are expected to follow all direction provided by the instructor as it relates to academic work. At the discretion of the instructor, cases of academic dishonesty may be referred to student conduct as a disciplinary matter in addition to being responded to by an academic unit. Any incidents previously addressed by an academic unit may be considered in sanctioning decisions when a student is found in violation of the *Code* for academic dishonesty.

Instructors may address incidents of dishonesty for that instructor's course, including (but not limited to) assigning a grade based on the instructor's determination that the student engaged in academic dishonesty related to that course. If the student has a grievance related to this action, that grievance would be directed to the college or school in which the course is housed. The grievance is processed according to the rules of the college or school and as outlined in Academic Grievances portion of the *Code*.

Additionally, the instructor may refer the case as a disciplinary matter to the dean of students. The dean of students may further refer the case to the student conduct process.

- a. **Cheating.** Cheating includes, but is not restricted to:
  - i. Copying from another's work in a manner that is not authorized by the instructor or designee;
  - ii. Possessing or using material related to any academic work (e.g. test, homework, quiz, assignments) not authorized by the instructor or designee;
  - iii. Collaborating with or seeking aid from another related to any academic work without permission from the instructor or designee;
  - iv. Knowingly using, buying, selling, stealing, transporting, or soliciting in whole or in part the contents of unadministered academic work;
  - v. Substituting for another student or permitting another student to substitute for oneself to participate in academic work; and/or
  - vi. Bribing another person to obtain an unadministered academic work or information about an unadministered academic work.
- b. **Plagiarism.** The appropriation, buying, receiving as a gift, or obtaining by any means another person's work and the unacknowledged submission or incorporation of it in one's own work.
- c. **Collusion.** The unauthorized collaboration with another person in preparing any academic work offered for credit.

2. **Document Misuse.** Misusing, falsely representing, defacing, mutilating, or stealing a University document.
3. **Election Tampering.** Tampering with the election of any University recognized student organization or representational body.
4. **False Information.** Furnishing false information to or withholding required information from any University document, representative, faculty member, or official.
5. **Forgery.** Forgery, alteration, or misuse of any official document, record, or instrument of identification, including University documents, records, or instrument of identification or presenting such forged, altered, or falsified records to a University official.
6. **ID Misuse.** The lending, giving to another person, or the use by a person to whom the document was not issued, of a University ID card or any document that is intended for use solely by the individual to whom the document was issued. The U-Card is considered the official University ID card. Theft of U-Card services, duplication, and/or altering of this card are prohibited.
7. **Informal Resolution Violation.** Failure to comply with an informal resolution agreement.

## C. Acts Against Self or Other Persons

Including, but not limited to:

1. **Assault.** Willfully or negligently causing bodily injury to another human being.
2. **Endangerment.** Physical abuse, threats, intimidation, harassment, coercion, and/or other conduct which threatens or endangers the health or safety of any persons.
3. **Harassment.** See [Discrimination and Harassment policy](#).
4. **Hazing.** Hazing is defined as an act by an individual or group that is an explicit or implicit condition for initiation to, admission into, affiliation with, or continued membership in a group or organization that could be seen by a reasonable person as endangering the physical health of an individual or as causing mental distress to an individual. These acts may include, but are not limited to:
  - a. The destruction, damage, and/or removal of public or private property;
  - b. The consumption of alcohol or drugs;
  - c. The consumption of any substance to excess;
  - d. Sexual activity;
  - e. Sleep, food, and/or water deprivation;
  - f. Forced physical activity;
  - g. Extended isolation;
  - h. Overexposure to weather; or
  - i. Any behavior described in [NDCC Chapter 12.1-17-10](#).

If behavior is found to be consistent with the definition of hazing, it will be treated as hazing regardless of whether individuals consented to the hazing. Anyone who is found to have

knowingly planned, actively or passively participated in, or in any other way facilitated hazing is also responsible for hazing. Appropriate activities associated with University groups (e.g., physical activity required for participation in University-sponsored athletic teams) are not considered violations of this policy. For purposes of this section, "University group" includes, but is not limited to, recognized student organizations, clubs, teams, or any other group affiliated with the University.

5. **Interference.** Conducting one's self in a manner that significantly interferes with the operations of the University or endangers the health or safety of members of the University community and/or campus visitors, including actions that (a) substantially interfere with, or (b) are taken with a general intent to engage in actions to substantially interfere with, another's educational opportunities, peaceful enjoyment of residence, physical security, or terms/conditions of employment.
6. **Menacing.** Knowingly places another person in fear through threats of imminent and serious harm.
7. **Stalking.** See [Sexual Misconduct](#); [Title IX Sexual Misconduct](#); or [Preventing and Responding to Domestic Violence, Dating Violence, Sexual Assault, and Stalking](#) policies.
8. **Surreptitious intrusion.** Intruding upon or interfering with the privacy of another by secretly or without authorization gazing, staring, peeping upon, photographing, recording, amplifying, or broadcasting sounds or events of another.
9. **Terrorizing.** Threatening to commit an act of violence and/or an act that would endanger another person's safety.

## D. Disruptive Activity or Disorderly Conduct

Including, but not limited to:

1. **Abuse of the University student conduct system**, including but not limited to:
  - a. Disruption or interference with the orderly conduct of a *Code* proceeding;
  - b. Falsification, distortion, or misrepresentation of information to an SCA;
  - c. Influencing another person to commit an abuse of the student conduct system;
  - d. Discouraging an individual's proper participation in, or use of, the student conduct system;
  - e. Intimidating an SCA, a participant in a conduct hearing, or a person hearing an appeal prior to, during, and/or after a student conduct proceeding;
  - f. Initiating, in bad faith, an action under the *Code*;
  - g. Participating, in bad faith, in an action under the *Code*; and/or
  - h. Retaliating against someone because they are participating in or declining to participate in a *Code* proceeding.
2. **Campus Disruption.** Participating in any behavior that disrupts the normal operations of the University and/or infringes on the rights of other members of the University community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area; or intentionally obstructing or unreasonably interfering with freedom of



movement, either pedestrian or vehicular, on campus.

3. **Classroom Disruption.** Engaging in behavior that substantially and/or repeatedly interrupts either a faculty member's ability to teach or student learning in any setting where a student is engaged in work toward academic credit or the satisfaction of program-based requirement or related activities.
4. **Failure to Comply with University Officials or Law Enforcement.** Failing to comply with the directions of University officials or law enforcement officers acting in performance of their duties; failure to identify oneself to these persons when requested to do so; and/or failure to comply with the sanction(s) or interim/supportive measure(s) imposed under the *Code*.

## E. Violation of any University Policy, Rule, or Regulation

Violation of any published SBHE or University policy, rule, or regulation, including violations of the [Residence Hall Room and Board License Agreement and policies](#), or the University Apartment Policy Book. University policies, rules, and regulations include, but are not limited to:

### 1. Possession/Use of Prohibited Items

- a. **Alcohol.** See [Alcohol and Drugs policy](#).
- b. **Drugs/Paraphernalia.** See [Alcohol and Drugs policy](#).
- c. **Medical Amnesty Act and Overdose Prevention and Immunity.** See [Alcohol and Drugs policy](#).
- d. **Weapons.** See [Weapons policy](#).

### 2. Acts Involving Property

Including, but not limited to:

- a. **Computer and Network Misuse.** Theft or other abuse of computer facilities and resources, including any action which violates SBHE Policy on Computing Facilities ([1901.2](#)), the [Student Acceptable Use policy](#) and/or the [Digital Millennium Copyright Act](#).
- b. **Fire Equipment Misuse.** Maliciously and/or negligently tampering with fire alarms or fire equipment.
- c. **Theft/Property Damage.** Theft of and/or damage to property within the premises or jurisdiction of the University, including University property or any property of a member of the University community and/or contractor(s), vendor(s), or guest(s) of the University.
- d. **Trespassing/Unauthorized Entry.** Unauthorized presence on or use of University premises, facilities, or property. Violating protocols listed in the [Access to and Security of Campus Facilities Policy](#) or through other means circumventing locks in university facilities or other unauthorized presence on or use of University premises, facilities, or property.

### 3. Sexual Misconduct

Sexual misconduct includes dating violence, domestic violence, sexual assault, sexual exploitation, and sexual harassment. Sexual misconduct also includes assault, stalking, and other acts prohibited by the

*Code* when the behavior is based on an intimate relationship and/or actual or perceived gender, gender expression, sex, or sexual orientation. For more information, see the [Title IX and Sexual Violence and Discrimination and Harassment](#) policies.

- a. **Dating Violence.** See [Sexual Misconduct](#) or [Title IX Sexual Misconduct](#) policy.
- b. **Domestic Violence.** See [Sexual Misconduct](#) or [Title IX Sexual Misconduct](#) policy.
- c. **Sexual Assault.** See [Sexual Misconduct](#) or [Title IX Sexual Misconduct](#) policy.
- d. **Sexual Exploitation.** See [Sexual Misconduct](#) policy.
- e. [Sexual Harassment.](#) See [Sexual Misconduct](#) or [Title IX Sexual Misconduct](#) policy.

## F. Additional University Policies & Documents:

University, state board, and system policies are available through the [UND Policy Office](#).

### 1. Criminal, Disciplinary Background Check at Admission to UND

Students making application to the University of North Dakota are asked about their criminal history and any disciplinary history at other colleges and universities. If an applicant answers in the affirmative to these questions, they will be asked to provide additional information. The risk posed to the community by the applicant is considered by campus stakeholders before an admission decision is made. Certain conditions may be required of those students who are admitted under this process.

An affirmative response does not automatically deny admission. Some programs - undergraduate, graduate, and professional - may have more stringent requirements. See [SBHE Policy 511](#).

### 2. Disability Accommodations

The University provides reasonable accommodations to qualified students with disabilities to ensure access to all programs and services. Students must contact [Disability Services for Students](#), 701.777.2664, to request accommodations.

### 3. Assemblies and Demonstrations

Refer to the [Events, Demonstrations, Fixed Exhibits, and Short-Term Rentals](#) policy for information regarding assemblies and demonstrations.

### 4. Policy on Graduate Assistants and Special Employees with Co-Required Student Status

All graduate assistants (graduate teaching assistants, graduate research assistants, and graduate service assistants), and special employees who are concurrently required to be students (e.g., certified flight instructors, residence hall staff) are students and are responsible for abiding by all policies as outlined in the *Code*. Additionally, they are subject to the ethical precepts and code of their academic profession, the laws of the state of North Dakota regarding its employees, and the University of North

Dakota policies which govern their institutional obligations. Violation of these constitutes a basis for disciplinary action in accordance with distributed University procedures.

## 5. Sage, Sweetgrass, and Cedar

Spiritual use of plants such as sage, sweetgrass, cedar, or other herbs in accordance with their well-established manner of use within indigenous ceremonial traditions for the purpose of purification and prayer, is permitted on-campus. For more information see the [Tobacco-Free Campus policy](#).

## 6. Suggestions and Complaints

The University welcomes suggestions and/or complaints from students, faculty, and staff. These suggestions and complaints should be directed to the unit or personnel most directly involved. It is only in this way that the institution can become aware of potential problems and take appropriate action. The University may review with accrediting agencies a log of anonymously tracked written student complaints. See student conduct complaint process for filing complaints for student misconduct with OSRR.

# III. Student Conduct Process

## A. Student Conduct Complaint

Any member of the University community may file a complaint against a student for an alleged violation of the *Code*. The University will presume that the student alleged to have violated the *Code* is not responsible for the alleged violation until a determination regarding responsibility is made at the end of the student conduct process. The presumption does not preclude the University from taking emergency action as described in the emergency restrictions and/or conditions process of the *Code*.

A complaint should be submitted as soon as possible after the event takes place or when an individual is made aware of a potential event of concern. OSRR assists members of the University community in answering questions and addressing concerns.

The institutional response will be determined by the severity of the alleged behavior. The individual who filed the complaint may indicate their desired response to the complaint. The wishes of the individual who filed the complaint will be taken into consideration in determining the institutional response.

Respecting one's right to privacy is important to the University with respect to the privacy of the involved individuals. Students can be assured that when they share information with medical, police, and/or University officials, such information will be handled professionally and within the framework of each agency's governing body privacy limitations (e.g., state law, licensing bodies, FERPA).

A student's privacy concerns are weighed against the needs of the University to respond to acts of harassment, including sexual misconduct. Information is shared on a limited basis and only with individuals who need to know to provide assistance and/or response to the complaint. When an individual files a complaint and requests that their name not be revealed to the accused person, the University's ability to respond may be limited.

Harassment and discrimination complaints may also be directed to the [University's Assistant Vice President for Equal Opportunity & Title IX](#). Please see the [Discrimination and Harassment policy](#) for additional information.

Reports taken by Housing staff members, reports created by University members, and reports from police will be considered complaints. The University may choose to consider information received from individuals and organizations outside of the University as a complaint.

All complaints will be reviewed by an SCA for consideration in the student conduct process. In review of a complaint, it may be determined that:

- a. Additional information is needed to determine a course of action. If it is determined that additional information is needed, an SCA may investigate the nature of the complaint to determine if a violation of the *Code* may have occurred;
- b. The complaint does not state circumstances which, if found to be true, would demonstrate a violation of the *Code*. If it is determined that the behavior as reported would not violate the *Code*, the complaint will be closed; or
- c. The complaint indicates that a violation of the *Code* may have occurred. If it is determined that a complaint does indicate a possible violation of the *Code*, the complaint will be referred to the administrative student conduct process or the student conduct suspension process.

If at the conclusion of an investigation it is determined that the information indicates that a violation of the *Code* did not occur or that there is insufficient information to indicate a violation of the *Code* did occur the complaint will be closed.

A closed complaint is a final decision. In rare circumstances, a closed complaint may be reopened if the University receives new information regarding an alleged violation of the *Code*. If a complaint is reopened, the accused student will be notified that the complaint has been reopened and have an opportunity to respond to the information. The dean of students, or designee, has the discretion to reopen a complaint.

If the complaint alleges that violence, harassment, or an act of sexual misconduct has occurred, the complainant may have additional rights within the student conduct process.

The Assistant Vice President for Equal Opportunity & Title IX, or designee, will be consulted by the SCA if appropriate.

Only relevant information will be considered in making decisions within the student conduct process.

In some circumstances, the SCA may determine that an informal resolution is an appropriate response to alleged behavior. Further, the SCA may determine that the non-conduct resolution or endangerment process, as outlined in the informal resolution section, is appropriate.

## **B. Student Rights**

A student has the following rights:

1. To be treated fairly;

2. To be notified of any proceeding which they are able to attend;
3. To be notified of the alleged violation(s) of the *Code*, also known as charges, and the possible consequences that may result;
4. To be heard by a fair and impartial decision maker;
5. To know the identity of those who made the complaint;
6. To choose to be accompanied by a personal advocate;
7. To choose to offer information on their own behalf;
8. To be notified in writing of any sanctions or actions which have been assessed;
9. To be notified in writing of the appeal process; and
10. To review their discipline record.

In certain circumstances a student may have the following additional rights:

1. In an incident of alleged violence or sexual misconduct, the individual who submitted the complaint may be notified of the outcome of any student conduct process as allowed by FERPA, and
2. In an incident of alleged sexual misconduct, the individual who submitted the complaint and the accused student may have the same rights as allowed by FERPA and [SBHE Policy 514](#).

A student may choose to participate or not participate in any portion of the student conduct process. If a student does not attend a scheduled student conduct proceeding, the student conduct proceeding will continue in their absence. Choosing not to participate or failing to attend any portion of a student conduct process is not interpreted as an admission of responsibility nor a basis for additional sanctions.

## C. Standard of Determination

The student conduct process is educational in nature and determination of responsibility for all alleged violations of the *Code* is based on the preponderance of information standard. The preponderance of information standard is also used for appeals of student conduct decisions. The preponderance of information standard is defined as more likely than not. An anonymous complaint cannot provide satisfactory information to determine that a student has violated the *Code*. A finding of a court of law after the completion of a student conduct process does not change the outcome, but it may be considered during an appeal process.

## D. Administrative Student Conduct Process

Students involved in alleged misconduct that may involve a violation of the *Code* will be referred to the student conduct process. The administrative student conduct process details the process taken by the University after receiving notification of a possible violation of the *Code*. The process includes:

- i. Pre-hearing conference,
- ii. Administrative hearing, and
- iii. Appeal process.

A complaint that is referred to the student conduct process does not have to result in an administrative hearing. If during the student conduct process it becomes clear that the information does not indicate a violation of the *Code* occurred the complaint may be closed.

## 1. Pre-Hearing Conference

Upon receiving information indicating a possible violation of the *Code*, the University will consider the information a complaint and initiate a student conduct process.

An SCA will be assigned to the accused student. The SCA will review the following with the accused student:

- a. Student rights in a student conduct process,
- b. The administrative student conduct process,
- c. The retaliation prohibited statement,
- d. The nature of the complaint,
- e. Campus and community resources available to the student, and
- f. Interim measures that may be imposed on the student.

The SCA may determine that an informal resolution is an appropriate response to the alleged violation. If so, the accused student will have the opportunity to indicate if they wish to resolve the complaint through an informal resolution process.

If informal resolution is not utilized, the accused student will be given the opportunity to provide information regarding the complaint. The student may choose to proceed to an administrative hearing or indicate to the SCA that they have violated the *Code*. If the student indicates that they have violated the *Code*, the SCA and the student may discuss appropriate sanctions and may resolve the complaint. If the SCA and the student agree to sanctions the sanctions will be imposed and an administrative hearing will not be scheduled. If the SCA and the student do not agree to sanctions an administrative hearing will be scheduled.

The SCA may determine that additional information is needed to make a determination as to whether or not a violation of the *Code* occurred, if so, the SCA may further investigate the complaint prior to scheduling an administrative hearing and/or refer the complaint to another SCA.

An administrative hearing will be scheduled between three and fifteen business days following the pre-hearing conference. The accused student may waive the minimum time requirement. The SCA may extend the maximum time requirement for an ongoing investigation or due to extenuating circumstances presented by the accused student.

## 2. Administrative Hearing

- a. Hearings will be conducted in private.
- b. In hearings involving more than one accused student the SCA has the discretion to permit the hearings concerning each student to be conducted either separately or jointly.

- c. The accused student is responsible for presenting their own information, and therefore, personal advocates are not permitted to participate directly in the hearing. The personal advocate may offer support, guidance, and advice to the student in a manner that does not disrupt the proceedings.
- d. The accused student may present or arrange for witnesses to present pertinent information to the SCA. Pertinent information includes, but is not limited to, records, exhibits, and written statements.
- e. The SCA may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, accused student, and/or other witnesses during the hearing, and in whatever manner, as determined to be appropriate in the sole judgment of the SCA.
- f. Formal rules of process, procedure, and/or technical rules of evidence, such as those that are applied in criminal or civil court, are not used in the *Code* proceedings. All procedure questions are subject to the final decision of the SCA.

### 3. SCA Decision

- a. After the administrative hearing concludes, in which all pertinent information has been received, the SCA will determine whether the accused student has violated the *Code* and if so, determine sanction(s).
- b. The SCA may determine that more information is necessary before reaching a decision or that referral of the received information to another SCA is warranted, and, with notice to the accused student, continue or refer the investigation of the complaint.
- c. Any decision will be rendered to the student in writing within five business days of the conclusion of the administrative hearing. In hearings involving more than one student, the SCA has five business days from the date of the last hearing to render a decision.

### 4. Appeal Process

After being found in violation of the *Code*, the accused student has the right to appeal the outcome of the administrative student conduct process.

- a. Appeals of decisions made within the administrative student conduct process for individual students are made to the dean of students.
- b. Appeals must be made in writing to the dean of students within five business days after the notification of any administrative student conduct process decision. A notice of appeal will contain the student's name and contact information, the date of the decision or action, the reason for appeal, and the name of the student's personal advocate, if any.
- c. Grounds for appeal may be based on such things as:
  - i. New information,
  - ii. Contradictory information, and/or
  - iii. Information that indicates the student in violation was not afforded due process.
- d. The reason and rationale for an appeal should be clearly stated within the appeal. The appeal should indicate the desired outcome of the appeal.

- e. An appeal will be reviewed by the dean of students or designee. The dean of students or designee may consider the appeal, police reports, transcripts, the outcome of any civil or criminal proceedings directly related to the appeal, and information presented during the administrative student conduct process in their review of the appeal. The dean of students or designee will make all decisions regarding the appeal.
- f. After reviewing the appeal, the dean of students or designee will determine if a valid ground(s) for an appeal has been presented. If the dean of students or designee determines the ground(s) presented are not valid, the appeal will be dismissed and the previously made decision is final. Providing information that was available and not provided during the administrative student conduct process is not considered new or contradictory information.
- g. If it is determined that the ground(s) for appeal is valid, the dean of students or designee may:
  - i. Modify the decision. The dean of students or designee may overturn all or some of the decisions regarding violations of the *Code* and/or modify or vacate any sanction;
  - ii. Order a new hearing. The dean of students or designee may void all or some of the determinations and call for a new student conduct hearing. The dean of students or designee may provide specific instructions to those participating in the student conduct hearing regarding the rights of a student, the hearing process and/or information that is or is not relevant to the hearing; or
  - iii. Uphold the decision.
- h. The dean of students or designee has ten business days from the receipt date of the appeal in which to issue a written determination on the appeal. Such written determination will be forwarded to the accused student and the SCA.
  - i. The action of the dean of students or designee is final.
  - j. In extraordinary circumstances when previously unknown information relative to the decision is made available the dean of students or designee may choose to review a decision after the end of the appeal process. The dean of students or designee will have the sole authority to determine what does and what does not constitute an extraordinary circumstance.

## E. Student Conduct Suspension Process

Students involved in alleged misconduct that may result in a suspension from the University will be referred to the student conduct suspension process, herein referred to as a suspension process.

Alleged misconduct that may result in a suspension includes, but is not limited to, behavior that poses a threat of danger and/or injury to self or others, destruction of property, physical assault, sexual misconduct, possession or involvement in the sale or manufacture of drugs and/or weapons, false emergency reporting, repeat violations of the *Code*, non-compliance with sanctions imposed through a student conduct process, bias-motivated offenses, interfering, and/or disrupting University activities and/or educational processes.

Emergency restrictions and/or conditions may be considered if the alleged misconduct indicates that the student's behavior poses a significant threat of danger and/or injury to self or others, a threat of disruption of the educational process for others, or a threat of destruction of property.



The suspension process details the process taken by the University after receiving notification of a possible violation of the *Code* that may result in a suspension. The process includes:

- a. Rights and responsibilities meeting,
- b. Investigation,
- c. Pre-hearing conference,
- d. Suspension hearing, and
- e. Appeal process.

A complaint that is referred to the suspension process does not have to result in a suspension. If during the investigation it becomes clear that the information does not indicate a violation of the *Code* occurred, or that suspension is not warranted, the complaint may be referred to a different process outlined in the *Code* or closed.

The accused student may identify and waive specific time requirements associated with the student conduct suspension process.

## 1. Rights and Responsibilities Meeting

Upon receiving information indicating a possible violation of the *Code* that may result in suspension, the University will consider the information a complaint and initiate a student conduct suspension process.

A university employee or agent trained in the student conduct suspension process will provide the following to the accused student:

- a. Student rights in a student conduct process.
- b. The suspension process.
- c. The retaliation prohibited statement.
- d. The nature of the complaint.
- e. Campus and community resources available to the student.
- f. Interim measures that may be imposed on the student.
- g. The name of the process advisor, investigator(s), and hearing officer assigned to the case.

The accused student may challenge the investigator and/or hearing officer for bias. The hearing officer has the responsibility to determine if the investigator should be removed for bias upon receiving a challenge. The dean of students, or designee, has the responsibility to determine if the hearing officer should be removed for bias upon receiving a challenge. Bias is defined as the inability of the individual to be fair and impartial.

## 2. Investigation

An SCA or designee will conduct an investigation of an alleged violation of the *Code*.

The investigator will gather information from members of the University community who were involved in the alleged violation of the *Code* or who may have witnessed or have knowledge of the alleged violation

of the *Code*. In some instances, the investigator may gather information from individuals outside of the University community.

After completing the investigation, the investigator will create an investigation summary. The investigation summary will include the following:

- a. The complaint.
- b. A summary of the investigation and information gathered.
- c. Summaries of any interviews.
- d. Any additional information or documents obtained by the investigator.

The investigation summary will be provided to the accused student at the completion of the investigation.

Upon receipt of the investigation summary the accused student has three business days to respond to the hearing officer regarding the investigation summary, and may do so in the following ways:

- a. Indicate that they believe that the investigation is complete and/or provide a written supplement. An accused student indicating that the investigation is complete does not mean that the accused student agrees with all of the information provided in the investigation summary.
- b. Request a supplemental investigation. If an accused student requests further investigation be done, the accused student should also indicate what ought to be done and why it ought to be done.
- c. Decline to respond to the investigation summary. An accused student declining to respond to an investigation summary does not indicate that they do or do not believe that the investigation is complete.

If a supplemental investigation is requested, the hearing officer will have the sole authority to determine if the requested supplemental investigation is or is not needed. The hearing officer will notify the accused student of the decision to further investigate the complaint within three business days of receiving the request.

If the hearing officer determines a supplemental investigation is needed, the hearing officer or the hearing officer's designee will conduct the supplemental investigation. Additional information gathered during a supplemental investigation will be provided to the accused student.

If the accused student indicates that the investigation is complete, declines to respond to the investigation summary, or the hearing officer determines that a supplemental investigation is not needed the complaint will continue to the pre-hearing conference.

Upon the completion of the investigation the hearing officer may continue with the suspension process, refer the complaint to a different process as outlined in the *Code*, or close the complaint.

### **3. Pre-Hearing Conference**

A pre-hearing conference will be scheduled at least five days following the completion of the

investigation stage of the suspension process. Notice of the pre-hearing conference will include the date, time, and location of the pre-hearing conference and the charged violations of the *Code*.

During the pre-hearing conference, the hearing officer will review the suspension hearing process with the student. The student may choose to proceed to a suspension hearing or accept responsibility for the charged violations of the *Code*.

If the student accepts responsibility for the charged violations of the *Code*, the student and the hearing officer will discuss appropriate sanctions and may resolve the complaint during the pre-hearing conference. If the student and the hearing officer agree to a resolution, any identified sanctions will be imposed and a suspension hearing will not be held. If the student and the hearing officer do not agree to a resolution a suspension hearing will be held.

If needed, a suspension hearing will be scheduled between seven and fifteen calendar days following the pre-hearing conference. The hearing officer may extend the maximum time requirement due to extenuating circumstances.

## 4. Suspension Hearing

If the suspension process does result in a suspension hearing, the hearing will be closed to the public.

The accused student will be notified of a suspension hearing at least seven calendar days prior to the scheduled hearing date. Included in the notification will be the date, time, and location of the suspension hearing. The notification will request the accused student to provide the hearing officer, within three business days of receipt, the following:

- i. The identity of the student's personal advocate, if any, and whether or not the personal advocate is a licensed attorney, and
- ii. A list of witnesses to be called on behalf of the accused student and copies of any documents or other materials to be presented by the accused student at the hearing.

Additionally, the notification will include an overview of a suspension hearing, the purpose of the hearing, and the names of any witnesses being called by the hearing officer during the hearing. In most circumstances the hearing officer will not call any witnesses during the hearing.

The hearing officer may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, accused student, and/or other witnesses during the hearing, and in whatever manner, as determined to be appropriate in the judgment of the hearing officer.

Formal rules of process, procedure, and/or technical rules of evidence, such as those that are applied in criminal or civil court, are not used in the *Code* proceedings. All procedure questions are subject to the final decision of the hearing officer.

### a. Purpose of the Hearing

The purpose of a suspension hearing is to determine, by a preponderance of the information, if the accused violated the *Code*, and if so, determine appropriate sanction(s).

## **b. Preliminary Hearing**

Suspension hearings are attended by the hearing officer and the accused student. The accused student may also have their process advisor and personal advocate, if any, in attendance. The University may have additional people in attendance for safety and logistical considerations and/or for training purposes.

Prior to the presentation of information, the hearing officer will indicate that the hearing is being recorded and that the recording is the property of the University and will serve as the sole verbatim record of the hearing.

## **c. Presentation of Information**

During a suspension hearing, the accused student may present relevant information to the hearing officer. This includes the opportunity to make an opening statement, call and question witnesses, and make a closing statement. Additionally, the hearing officer may call and question witnesses.

Every witness may be questioned, for the purpose of clarification, by the accused student and hearing officer. If the accused student chooses to provide information during the hearing, the accused student may be questioned by the hearing officer.

The University will make available the investigator as a witness. The accused student and hearing officer may call the investigator as a witness. Questions directed to the investigator are limited to information gathered and decisions made during the investigation.

## **d. Hearing Decision**

At the conclusion of the hearing the hearing officer will have up to five business days to reach a decision regarding responsibility and, if necessary, sanctions.

Information that may be used to determine sanctions includes, but is not limited to, character and impact witnesses and/or statements, whether the accused student has previously been found in violation of the *Code*, and sanctions imposed due to previous violations of the *Code*.

Suspension and/or other sanctions placed by the hearing officer are effective immediately following the notification of the student, unless otherwise noted by the hearing officer. This may initially be done verbally. The official notification of the hearing officer's decision is a suspension hearing decision letter. A suspension hearing decision letter will outline the decision regarding the alleged policy violations and the rationale used for making the decision and, if applicable, any sanctions imposed as a result of the violations and the rationale for the sanctions.

## **5. Appeal Process**

The accused student has the right to appeal the outcome of a suspension hearing or an agreed upon recommendation.

- a. Appeals of decisions made within the suspension process are made to the VPSA.
- b. Appeals must be made in writing to the VPSA within one year after the notification of any suspension hearing or agreed upon recommendation decision. An appeal should contain the

- student's name and contact information, the date of the decision or action, the reason for appeal, and the name of the student's personal advocate, if any.
- c. Grounds for appeal may be based on such things as:
    - i. New information,
    - ii. Contradictory information, and/or
    - iii. Information that indicates the student in violation was not afforded due process ([SBHE 514](#)).
  - d. The reason and rationale for an appeal should be clearly stated within the appeal. The appeal should indicate the desired outcome of the appeal.
  - e. An appeal will be reviewed by the VPSA or designee. The VPSA or designee may consider the appeal, police reports, transcripts, the outcome of any civil or criminal proceedings directly related to the appeal, and information presented during the suspension process in review of the appeal. The VPSA or designee will make all decisions regarding the appeal.
  - f. After reviewing the appeal, the VPSA or designee will determine if a valid ground(s) for an appeal has been presented. If the VPSA or designee determines the ground(s) are not valid the appeal will be dismissed and the previously made decision is final. Providing information that was available and not provided during the student conduct suspension process is not considered new or contradictory information.
  - g. If it is determined that the ground(s) for appeal is valid, the VPSA or designee may:
    - i. Modify the decision. The VPSA or designee may overturn all or some of the decisions regarding violations of the *Code* and/or modify or vacate any sanction.
    - ii. Order a new hearing. The VPSA or designee may void all or some of the decisions and call for a new student conduct hearing on all or some of the issues originally considered. The VPSA or designee may provide specific instructions to those participating in the student conduct hearing regarding the rights of a student, the hearing process, and/or information that is or is not relevant to the hearing.
    - iii. Uphold the decision.
  - h. The VPSA or designee has 21 business days from the receipt date of the appeal in which to issue a written determination on the appeal. Such written determination will be forwarded to the accused student, the dean of students, and the hearing officer.
  - i. The action of the VPSA or designee is final.
  - j. In extraordinary circumstances when previously unknown information relative to the decision is made available the VPSA or designee may choose to review a decision after the end of the appeal process. The VPSA or designee will have the sole authority to determine what does and what does not constitute an extraordinary circumstance.
  - k. If the appeal results in a reversal of the decision or lessening of the sanction(s), the institution may reimburse the student for any tuition and fees paid to the institution for the period of suspension which had not been previously refunded ([SBHE Policy 514](#)).

## 6. Sexual Misconduct and Title IX Sexual Misconduct

For alleged violations of sexual harassment, as defined by Title IX, or sexual violence the process and procedures defined by the Sexual Misconduct or Title IX Sexual Misconduct policy and the associated protocol will be used for all complaints.

The decision maker(s) in a hearing held under the Sexual Misconduct or Title IX Sexual Misconduct Violence policy have the authority to suspend a student if they determine it to be an appropriate sanction for a found violation.

If there are multiple alleged violations of the *Code*, and at least one of the alleged violations is covered by the Sexual Misconduct or Title IX Sexual Misconduct policy, the Sexual Misconduct or Title IX Sexual Misconduct process will be utilized. However, decisions regarding responsibility for alleged violations of the *Code* for alleged violations not covered by the Sexual Misconduct or Title IX Sexual Misconduct will be based on the rules established within the *Code*.

The decision maker(s) in a Sexual Misconduct or Title IX Sexual Misconduct hearing may determine that suspension is not an appropriate sanction. If it is determined that a student has violated the *Code* and that suspension is not appropriate, the decision maker(s) may refer the determination of sanctioning to a SCA.

## F. Emergency Restrictions and/or Conditions Process

The University is committed to providing an optimal educational environment for all of its students. Any person who has information that indicates the continued presence of a student on the University campus poses a substantial threat should provide the information to the dean of students. The dean of students or designee will convene the [Behavioral Intervention Team](#) (BIT) to review information that indicates:

- a. A student's behavior poses a significant threat of danger and/or injury to self or others,
- b. A student's behavior poses a threat of disruption to the educational process for others, and/or
- c. A student's behavior poses a threat of destruction of property.

Upon review, the BIT will provide a recommendation to the dean of students or designee. The BIT has the authority to recommend emergency restrictions and/or other conditions. The dean of students or designee has the authority to impose emergency restrictions and/or other conditions.

Restrictions and conditions that may be imposed include, but are not limited to:

- a. Restricting a student from physically and/or virtually being on campus or specific campus locations. If permitted, a student may request from their faculty member(s) consideration in adjustments of course timelines or methods of teaching or testing. Faculty member(s) are under no obligation to agree to such requested accommodations,
- b. Other actions itemized in the Restrictions or Educational Activities Sanctions and/or Interim/ Supportive Measures portions of the *Code*, and/or
- c. Requiring further evaluation of the student through appropriate experts. In such a case, the

dean of students or designee may postpone a final decision until after further evaluation results are received.

Emergency restrictions and/or other conditions are effective immediately following the notification of the student. The dean of students or designee may initially notify the student verbally of any restrictions and/or other conditions. The dean of students or designee will notify the student in writing within three business days.

Emergency restrictions and/or other conditions remain in effect until the conclusion of the student conduct process or until lifted by the dean of students or designee.

A student may request, in writing to the dean of students, a review of any emergency restrictions and/or other conditions that have been imposed. After receiving such a request, the dean of students or designee will meet with the student within five business days. At this time, the student may present and/or provide additional information for consideration by the dean of students or designee. The student may have a personal advocate during the review process. A process advisor will be assigned to the student upon the student requesting a review of the emergency restrictions and/or conditions or upon the initiating of a student conduct process, whichever initiates first.

Upon review of the information, the dean of students or designee will determine if the emergency restrictions and/or other conditions should remain in effect until the matter is resolved. The student will be notified in writing of the review decision within three business days. The dean of students or designee may notify the student of the decision verbally prior to the student receiving the written notification.

## **G. Informal Resolution Processes**

At times, the University may offer to respond to a reported violation of the *Code* through the informal resolution process. If the University determines that it is appropriate to use the informal resolution process, a student will have the option to engage in the informal resolution process with an SCA or engage in a student conduct process. The SCA will send a pre-hearing conference notification letter outlining the resolution options available to the student. If the student does not attend the pre-hearing conference or elects not to engage in the informal resolution process, the student conduct process will continue as outlined in the letter.

No finding of policy violation(s) will be made in the informal resolution process. An agreed upon informal resolution is considered the end of the process once the student completes any associated items. An informal resolution may be revisited and modified due to changes in circumstances.

If the SCA determines that an informal resolution cannot be agreed upon or the student has not fulfilled the requirements of the resolution, the SCA will refer the complaint to the student conduct process for review.

Additional types of informal resolutions include:

### **1. Non-Conduct Resolution Process**

Non-conduct resolution is an alternative method of resolving disputes and conflicts outside of other

student conduct processes. It is a voluntary process requiring the participation of an SCA who operates from an impartial basis and whose primary role is to facilitate an agreement. Non-conduct resolution will typically only be used in complaints between students in which the accused student and complainant student indicate a desire for the non-conduct resolution process be utilized. It may also be used in instances where students file complaints against one another for the same incident. Involved parties within the non-conduct resolution process are the accused student, the complainant student, and any other individual identified by the SCA as an involved party.

When a non-conduct resolution is suggested, the dean of students or designee will determine if that process is appropriate and will coordinate necessary arrangements. An SCA will facilitate a conversation, directly and/or indirectly, between the involved parties regarding the complaint and the desired resolution. The SCA will present a non-conduct resolution agreement to the accused student and complainant student separately. If all agree to the resolution, the SCA will provide the accused student and complainant student with the final non-conduct resolution in writing within five business days. The accused student and complainant student have five business days to request a review of the non-conduct resolution. If a review is requested, the previously shared resolution is considered not agreed upon and the non-conduct resolution process continues as such.

No finding of policy violation will be made in the non-conduct resolution process. A non-conduct resolution is a finalized agreement and considered the end of a complaint. The non-conduct resolution may be revisited and modified if the accused student or complainant student request the agreement be reviewed due to changes in circumstances regarding the implementation of the agreed upon resolution.

If the SCA determines that a non-conduct resolution cannot be agreed upon, the SCA will refer the complaint to the student conduct process for review. No information learned from the non-conduct resolution process will be used in any further process; however, if a student fails to comply with the agreed upon resolution, they may be subject to the student conduct process due to failure to comply with the non-conduct resolution agreement.

## **2. Endangerment**

In the event that the University receives information indicating that a student may be a danger to themselves or others the University reserves the right to refer the student for a personal or behavioral evaluation. The referral may be made prior to or in lieu of a student conduct process.

A student may be referred for a behavioral evaluation if the information indicates that they are or may be a risk to themselves and/or others. Behavioral evaluations are not available at the University Counseling Center, so they must be completed elsewhere with a licensed mental health care provider of the student's choice. Behavioral evaluations are considered complete once the provider has informed the referring office that the student has completed the evaluation. The student may also be required to complete any identified recommendations made by the provider.

A student may be referred for a personal evaluation if the information is not being considered for a referral to the student conduct suspension process. Personal evaluations may be completed at the University Counseling Center or elsewhere with a licensed mental health care provider of the student's choice. Personal evaluations are considered complete once the provider has informed the referring



office that the student has completed the evaluation.

Failure to complete a referral in a timely manner may result in a student conduct process and/or the student being prohibited from registering. If a student has already pre-registered and fails to complete the referral in a timely manner, the student's classes may be canceled.

A student may elect to proceed to a student conduct process instead of completing a personal or behavioral evaluation. The student may receive a similar referral as a sanction through the student conduct process if the student is found in violation of the *Code*.

## H. Interim and Support Measures

An SCA may enact and interim and support measures during a student conduct process in the best interest of the academic experience and well-being of members of the University community. Interim measures may be placed during the investigative phase of the student conduct process. Interim measures may also be placed during a period of time where an individual is deciding whether or not to file a formal complaint. This period is typically less than 30 days. Interim measures may also stay in place after a formal complaint has been filed and prior to the start of the investigative phase if there is a delay. All interim measures will be removed upon the completion of the student conduct process.

Interim measures include, but are not limited to:

- a. Alter an academic schedule and/or coordinate arrangements with instructors to assist in offsetting potential academic problems;
- b. No Contact Directive;
- c. Restriction(s) on access to all or to specified campus facilities, buildings, or other locations; services; or events;
- d. University housing transfer, restricted access within university housing, restricted access to dining services, and removal and/or ban from university housing and/or dining services for a specified period of time.
- e. Restriction(s) on driving on or parking in University-controlled streets, roads, and parking lots; and/or
- f. Emergency Suspension.

The University may also offer supportive measures to those involved in the student conduct process or who have brought information forward regarding a possible complaint.

## I. Sanctions

If a student is found in violation of the *Code* the student is subject to any, and all, sanctions imposed through the student conduct process.

### 1. Status Sanctions

- a. **Written Reprimand.** Written reprimand refers to official censure of a student's conduct in violation of a regulation of the University community. A written reprimand indicates no ongoing

status change for the student.

- b. **Warning Probation.** Warning probation indicates that further violations of the *Code* may result in more severe disciplinary action. Warning probation is imposed in conjunction with other sanctions for the period of time that other sanctions are pending. Upon completion of all pending sanctions or one calendar year, whichever comes first, the student is automatically removed from warning probation.
- c. **Conduct Probation.** Conduct probation indicates that further violations of the *Code* may result in suspension. Conduct probation is imposed for a period of not more than one year and the student is removed from conduct probation automatically when the imposed period expires.

## 2. Restrictions or Educational Activities Sanctions

The SCA or hearing panel may impose additional sanctions. Such sanctions may include, but are not limited, to:

- a. **No Contact Directive.** A directive to refrain from any intentional contact, direct, or indirect, with one or more designated persons or group(s) through any means, including personal contact, e-mail, telephone, or through third parties. Failure to adhere to a no contact directive may result in further disciplinary action.
- b. Suspension of or restriction(s) on access to all or to specified campus facilities, buildings, or other locations; services; or events.
- c. University housing transfer, restricted access within university housing, restricted access to dining services, and removal and/or ban from university housing and/or dining services for a specified period of time.
- d. Restitution for cleaning, replacing, or restoring a specific area or thing when loss or damage was a result of the student's disciplinary violation.
- e. Referral for an assessment to a mental health provider.
- f. Mandated participation in one or more campus or community activities, lectures, service, and/or workshops.

In student conduct processes involving student organizations, the SCA or hearing panel may impose sanctions that include but are not limited to:

- a. Restrictions on activities involving the recruitment of new members.
- b. Suspension of or restriction(s) on access to all or to specified campus facilities, buildings, or other locations, services, or events.
- c. Restitution for cleaning, replacing, or restoring a specific area or thing when loss or damage was a result of the organization's disciplinary violation.
- d. Mandated participation in special activities or campus events.
- e. Restrictions on, or suspension of, requesting funds from the Student Organization Funding Agency.
- f. Restrictions on, or suspension of, practices related to the solicitation of funds on campus for the support of organized activities.

### **3. Suspension**

Suspension is a withdrawal of enrollment privileges and a ban from campus owned, leased, or controlled property and university events and activities. Student organizations that are suspended from the University will have their recognition as a student organization revoked.

Suspension may be imposed as the result of the student conduct suspension process. Suspension may be imposed in conjunction with other sanctions.

Suspension will generally be for at least the remainder of the semester in which the sanction is imposed and result in the cancelation of registration of the student. Suspension may be imposed for a specific period, up to five years, an indefinite amount of time, or permanently. If an indefinite suspension is imposed, it will be in place for a minimum of five years. A permanent suspension is referred to as an expulsion. Conditions to be met prior to reinstatement may be included with a fixed-term or indefinite suspension.

An emergency suspension may be imposed through the emergency suspension and conditions process.

### **4. Enhanced Sanctions for Bias-Motivated Violations**

A student found in violation of the *Code* may receive more severe or enhanced sanctions up to, and including, suspension if the violation is determined to be motivated by bias.

Bias means behavior motivated by actual or perceived race, color, genetic information, national origin, religion, sexual orientation, gender identity, sex, age, creed, marital status, veteran's status, political belief or affiliation, or physical, mental, or medical disability of another person or group.

## **J. Compliance with Sanctions**

### **1. Student Compliance with Sanctions**

A student in violation is responsible for completing the sanctions imposed through the student conduct process within the timeframe stated in the decision letter. If a student does not complete the sanctions or violates the sanctions as prescribed, the student will be prohibited from registering.

If a student has already pre-registered and the sanction has not been completed, the student's registration may be canceled.

### **2. Student Organization Compliance with Sanctions**

Student organizations that do not complete the sanctions or violate the sanctions as prescribed will no longer be considered in good standing and will not be entitled to the rights or privileges of student organizations.

### **3. Reinstatement Following a Suspension**

Reinstatement for students following a suspension involves the following procedure:

- a. The suspended student applies in writing to the dean of students for reinstatement,
- b. The dean of students or designee reviews the record and ensures that the conditions (if any) for reinstatement have been satisfied and that the terms of the suspension have not been violated, and
- c. If the student has met the conditions for reinstatement and not violated the terms of the suspension the student is reinstated. The student must still complete the readmission process through the University.

Reinstatement for student organizations following a suspension involves the following procedure:

- a. The suspended student organization applies to the dean of students for reinstatement,
- b. The VPSA or designee reviews the record and ensures the conditions for reinstatement have been satisfied.

## 4. Reinstatement Following an Indefinite Suspension

- a. The suspended student or student organization completes Reinstatement Following a Suspension process, and
- b. The VPSA reviews the suspended students request for reinstatement. The VPSA may consider information such as the request from the suspended student, information provided during the student conduct suspension process, and the outcomes of any civil or criminal proceedings involving the suspended student in determining whether to reinstate a suspended student with an indefinite suspension.
- c. A suspended student may only request to be reinstated from an indefinite suspension once per semester.

## K. Disciplinary Records

Disciplinary records are separate from the student's academic record. Disciplinary records are considered a part of the student's educational record. A student's disciplinary record is confidential and may not be disclosed in whole or in part except as allowed in the Educational Records section of the *Code*, upon written request of the student, or in response to a court order.

1. An individual student's disciplinary record consists of:
  - a. A copy of the notification letter sent to the accused student;
  - b. All documents, information, and materials admitted in the hearing or provided to the student during the student conduct process;
  - c. If applicable, the audio recording of the hearing, which is the sole official verbatim record of the hearing and is the property of the University of North Dakota; and
  - d. A copy of the decision, if applicable.
2. The result of a hearing involving a student organization is not subject to FERPA. The records of student members of student organizations are subject to FERPA. The charges, findings, and sanctions for the student organization will be considered public information. Personally identifiable information will be redacted or omitted from any disclosure document.

3. The office of record for disciplinary records is OSRR. Records are kept according to the general records retention schedule. Records are considered active until the matter is resolved. After the matter is resolved the records are retained in accordance with the general records retention schedule, currently six years following the current academic year.
4. Students who wish to review their disciplinary or hearing records may contact OSRR to schedule an appointment to conduct a review of these records.

Students who wish to challenge specific data or information in an educational record or who wish to amend their records should refer to the Educational Records section of the *Code*.

## IV. The Use of University Facilities

It is the policy of the University to support recognized student organizations, the University community, and other individuals or groups in their presentation of events which further the missions of the University, provide opportunities for social growth and cultural understanding, and serve the recreational needs of the campus community.

The University permits the orderly use of its facilities by recognized student organizations, University-related groups, and, in some instances, non-University-related organizations to further its educational mission. For information related to access to University property refer to the [Access to and Security of Campus Facilities policy](#).

"Facility" is defined as any University classroom, auditorium, residence hall, other building, or outdoor area. University-related activities are given precedence over the use of facilities by outside groups. For information related to what constitutes University property, contact the office of Facilities.

### A. [Events, Demonstrations, Fixed Exhibits and Short-Term Rentals](#)

The University reviews proposed events, demonstrations, fixed exhibits, and short-term rentals to ensure that they do not represent an unreasonable risk to participants, other members of the campus community, or University property. The review is view-point and content neutral. For information regarding the review of events, demonstrations, fixed exhibits and short-term rentals and guidance regarding what events needs to go through the review process refer to the [Events, Demonstrations, Fixed Exhibits and Short-Terms Rentals policy](#).

### B. Solicitation Policy

1. Solicitation is to include the sale or offer for sale of any property or service and/or receipt of or request for any gift or contribution.
2. No solicitation may be conducted in any building or structure on the campus of the University except by the agents or employees of the University acting in the course and scope of their agency or employment, or by recognized student organizations or renters of space within the Memorial Union. Solicitors' actions must be in accordance with this section and University policy.
  - a. In the case of the Memorial Union, the director of the Memorial Union or designee may permit on- or off-campus persons, groups or organizations to reserve, lease,

and/or use portions of the building for the purpose of selling products and/or services to the campus community.

- b. In the case of requested solicitation outside of the Memorial Union, please refer to the [Events, Demonstrations, Fixed Exhibits and Short-Term Rentals](#) process.
3. Solicitation must be conducted in a way that:
    - a. Is in keeping with the educational mission of the University and complies with other policies and procedures contained in the *Code*.
    - b. Will not disturb or interfere with the regular academic or institutional programs or other programs being conducted on the campus.
    - c. Will not interfere with the free and unimpeded flow of pedestrian or vehicular traffic on sidewalks, streets, or within buildings.
    - d. Will not impede entrance to or egress from campus buildings, or into, from, or through common areas of campus buildings.
    - e. Will not harass, embarrass, or intimidate the person or persons being solicited.
    - f. Will create no conflict with contractual obligations of the University.
    - g. When in the Memorial Union, the sale or distribution of food items will comply with Memorial Union facility use policies.
    - h. Off-campus persons, groups, or organizations not affiliated with the University must be properly licensed to sell the products and/or services being offered.
    - i. Conforms to all applicable state and federal laws and city ordinances, including those related to charitable gaming (raffles, etc.) when applicable.
  4. Recognized student organizations may collect membership fees or dues or conduct other solicitation defined in this section at activities of such organizations scheduled in accordance with the facilities-use regulations outlined in this section.
  5. Admission fees may be collected for an exhibition, movie, or other program that is sponsored by the University, a recognized faculty group, or a recognized student organization and that is scheduled in accordance with the facilities-use regulations in this section.
  6. Regulations for sales:
    - a. All activities involving University funds or services are subject to University and state audit and may be subject to city and/or state sales tax.
    - b. Cash boxes may be checked out from the Student Involvement Center.

## C. Donated Goods Policy

Donated goods such as T-shirts, pamphlets, and/or food, may be donated to the University or to University organizations as long as the following conditions are met:

1. The donating entities must be licensed by the city of Grand Forks or by the states of North Dakota or Minnesota.
2. There can be no out-of-pocket or in-kind charge to the University, organization, or consumers of the products.

3. All requests to donate goods to the University for use by recognized student organizations must abide by University policies.
4. Goods donated must be distributed on campus by University employees, representatives, and/or students but not by representatives of the donor.
5. No goods or funds may be donated to recognized student organizations by makers, dealers, or purveyors of alcoholic beverages.

## V. Student Organizations

Involvement in co-curricular activities provides students the opportunity to engage in experiences that will enhance their personal and academic development; thus the University supports and encourages involvement in student organizations as part of their total educational experience.

Because the University so firmly believes in the educational benefits of co-curricular involvement, it provides facilities and professional staff expertise to support and enhance the experiences of the students involved in campus organizations. Students are encouraged to utilize staff members in achieving the mission and goals of their organizations.

The University provides support to each recognized student organization regardless of the nature of the organization's activity and/or ideology. Organizations are independent units which exist on the UND campus and are not considered agents of the University. However, organizations are advised that records related to certain activities carried on in furtherance of the University's educational mission may be subject to North Dakota's open records laws, especially where such activities constitute public business or a governmental function. Relevant factors may include whether the organization is supported entirely by public funds, and whether courses for which academic credit is awarded are being administered by the organization.

### A. UND Student Government

UND Student Government is the representational body of the entire student population.

1. The structure and operation of Student Government is established in a written constitution which has been approved by a vote of the general student body and by the president of the University. Student Government does not fall into the category of a recognized student organization as defined in this document.
2. Student Government is held to the same procedural and operational standards as are other units of the University. Student Government has a responsibility to allocate student activity fees in a fair and impartial manner in such a way that the welfare and interests of all students are considered. Allocation of funds may not be used as a device of censorship or to suppress viewpoints or ideas.
3. The VPSA designates an advisor to Student Government. The advisor is the supervisor for human resources and employment actions relating to all students appointed to and/or hired to fill paid positions within Student Government.

## B. Association of Residence Halls (ARH)

ARH is the representational body for all students living in UND residence halls. Residents of each hall are represented directly by their Hall Government, which elects representatives to serve on various boards. The ARH Policy Board, on which each Hall Government selects a representative to serve, is ARH's overall governing council and makes recommendations on residence hall policies, approves Hall Government and ARH Board constitutions, and represents the interests of students living in UND residence halls. ARH does not fall into the category of a recognized student organization as defined in this document.

## C. Recognized Student Organizations

Recognized student organizations are those student groups that have completed the process for becoming a recognized student organization at UND, remain active, and comply with the forming guidelines and the responsibilities of recognized student organizations.

## D. Establishing a New Student Organization

### 1. Forming a student organization (other than a fraternity or sorority):

- a. The prospective student organization member(s) indicate their intent to form a student organization by completing the intent to organize form. The form must indicate the names of at least five current UND students who will be members as well as the name of the faculty or staff member who will serve as the organization's advisor.
- b. Staff will:
  - i. Provide interested students forming guidelines,
  - ii. Explain the recognition process, and
  - iii. Assist the group in the recognition process.
- c. The prospective student organization member(s) must submit a constitution for their proposed organization. The constitution must include:
  - i. An acknowledgement that all officers and voting members must be current UND students.
  - ii. A reference that no academic credit will be available based on membership in the organization.
  - iii. A non-discrimination statement must be included in each constitution that conforms to one of the following standards:
    1. **Option 1. Inclusion of a Non-Discrimination Statement.**  
Membership in [this organization] is without regard to race, color, genetic information, national origin, religion, sexual orientation, gender identity, sex, age, creed, marital status, veteran's status, political belief, or affiliation or physical, mental, or medical disability unrelated to the purpose of the organization. (Federal law through Title IX permits fraternities and



sororities to remain as single sex organizations provided there is equal opportunity to join similar organizations.)

**2. Option 2. Inclusion of a modified Non-Discrimination Statement.**

Generally, no student is to be excluded from membership or participation on the basis of race, color, genetic information, national origin, religious status or historic religious affiliation, sexual orientation, age. Marital status, veteran's status, or physical, mental or medical disability unrelated to the purpose of the organization, and except when exempt under Title IX, sex, gender, or gender identity. However, groups may select their members on the basis of commitment to a set of beliefs (e.g., religious or political beliefs) and may limit membership and participation in the organization. Such a group may perceive an incongruence between their key principles or beliefs and elements of the Non-Discrimination Statement.

**3. Option 3. Petition for Exemption**

The prospective student organization member(s) may petition the consideration of their constitution for an exemption from including one or more populations listed in the Non-Discrimination Statement.

The student organization officer will hear the petition and respond to the group representative(s) whether one or more populations may be excluded from the Non-Discrimination Statement, which will otherwise appear in the prospective group's constitution. A decision will be rendered within 30 business days. Criteria for such a decision includes substantiation of the claim for redress as demonstrated in the organization's mission statement, statement of purpose, and/or founding documents, including the documents of any national affiliate to which the group may subscribe.

- d. Upon approval of the newly formed organization's constitution, the group will become a UND recognized student organization.

## 2. Forming a fraternity or sorority

Students wishing to establish a chapter of a national fraternity or sorority should consult the coordinator for fraternity and sorority life. In addition to becoming a recognized student organization, the prospective group must follow the procedures outlined by the Interfraternity or Panhellenic Council. The coordinator for fraternity and sorority life and the appropriate council may modify the procedures as needed.

## E. Privileges of Student Organizations

A recognized student organization may use:

1. The University's name in the title of the organization.
2. University facilities per departmental or building specific policies.
3. The University's trademarked/copyrighted logos and images with University approval.
4. An on-campus financial account.

## F. Responsibilities of Recognized Student

# Organizations

A recognized student organization has the responsibility to:

1. Register each fall semester by the established deadline.
2. Maintain an advisor who is a faculty or staff member.
3. Notify the Student Involvement Center of any changes to the officer list and/or advisor within two weeks of any changes.
4. Maintain a current copy of their approved constitution in the Student Involvement Center.
5. Keep their on-campus financial account in good standing.
6. Abide by the [UND Equal Opportunity Policy statement](#).
7. Abide by the laws of the state of North Dakota, the policies and procedures of the SBHE, city ordinances of Grand Forks, and the policies and procedures, including those found in the *Code*. If the organization's property is the site of activity that is in violation of the *Code*, then the organization is subject to University sanctions.

If a student organization fails to comply with the requirements of a recognized student organization the student organization may:

1. Be designated as inactive.
2. Be dissolved if the student organization remains inactive for two consecutive years.

The University will notify the president and advisor of record of the recognized student organization of any status change for the student organization.

## G. Status of Recognized Student Organizations

1. **Good Standing.** A recognized student organization will be considered in good standing when it fulfills the responsibilities of recognized student organizations.
2. **Inactive.** A recognized student organization will be designated inactive if it fails to comply with the responsibilities of recognized student organizations.
3. **Dissolved.** If an organization fails to comply with the responsibilities of recognized student organizations for two consecutive years, it will be designated dissolved and no longer recognized by the University and no longer eligible to receive the privileges of student organizations. Additionally:
  - a. Any existing funds in an on-campus account of a dissolved student organization will be transferred to a general student leadership account when the organization is dissolved.
  - b. Should a dissolved organization complete the recognition process within 12 months from the date of dissolution, funds that were in the on-campus account at the time of dissolution will be returned to the organization. Beyond twelve months the funds will not be returned.
  - c. Members of a dissolved student organization who wish to become a recognized group again must apply through the establishing a new student organization

process.

## VI. Student Records

Student records maintained by the University fall into three general categories: directory information, educational records, and treatment records. As custodian of student records in compliance with the Family Educational Rights and Privacy Act (FERPA) of 1974, as amended, the University assumes the trust and obligation to ensure protection of student records which includes maintaining the confidentiality of student records. The University has developed policy guidelines for access to the student record with respect to the rights of eligible students and parents of dependent eligible students. All information contained in University records is considered confidential, except for directory information which may be released publicly in printed, electronic, or other form. The administrative procedures outlined in this section are to be complied to by University personnel who have or accumulate student records that are in a personally identifiable form. The term "student" in this section means an eligible student under FERPA (a student enrolled at UND). Students may review a copy of FERPA and the regulations at the following offices: University Registrar, Student Rights & Responsibilities, Vice President of Academic Affairs, Vice President for Student Affairs, and Equal Opportunity & Title IX.

### A. Directory Information

1. Directory information is information concerning a student that may be released publicly. It includes the following: student name\*, hometown (city, state), campus email address, height, weight, and photos of athletic team members, major field of study (all declared majors), minor field of student (all declared minors), class level, dates of attendance, enrollment status (withdrawn, half-time, full-time), names of previous institutions attended, participation in officially recognized activities and sports, honors/awards received, degree earned (all degrees earned), date degree earned (dates of all degrees earned), degree photos, photographs and video recordings of students in public or non-classroom settings (photographs from classrooms or class-related activities are not directory information).
2. Under FERPA, students have the right to request directory information not to be made public by notifying the Office of the Registrar. Students should be aware that information might be collected for use in publications in advance of printing. In order to effectively suppress release of directory information, students should restrict their information as early in the term as possible. To restrict release of all directory information, students must personally contact the Office of the Registrar. The University receives many inquiries for directory information from a variety of sources including, but not limited to, prospective employers, other colleges and universities, graduate schools, licensing agencies, government agencies, news media, parents, friends, and relatives. Students should consider very carefully the consequences of their decision to withhold release of any or all directory information items. Campuses have no responsibility to contact students for subsequent permission to release directory information after it is restricted. The University will honor student requests to withhold directory information until the student specifically and officially requests to lift these restrictions. To reverse existing directory restriction, students must personally contact the Office of the Registrar.

## B. Educational Records

1. Educational records are those records, files, documents, and other materials which contain information directly related to a student and are maintained by the University or a party acting on behalf of the University. Educational records include more than academic records. Educational records, with the exception of those designated as directory information, may not be released without the written consent of the student to any individual, agency, or organization other than the following:
  - a. School officials who have legitimate educational interests;
    - i. A school official is someone employed by the University in an administrative, supervisory, academic, research, or support staff position; a person or company with whom the University has contracted (such as an attorney, auditor, or collection agent); a person or organization acting as an official agent of the University and performing a business function, or service on behalf of the institution; a person serving on the State Board of Higher Education; a student serving on an official or recognized committee, such as a disciplinary or grievance committee; or assisting another school official in performing their tasks.
    - ii. A school official has a legitimate educational interest if the official needs to access the educational record in order to fulfill their responsibility on behalf of the University. This means performing a task that is specified in their position description or contract.
  - b. Officials of other institutions in which the student seeks or intends to enroll.
  - c. Authorized representatives of the comptroller general, the secretary of education, the administrative head of an educational agency, state education authorities, or the attorney general when investigating government sponsored or affiliated programs.
  - d. Officials responsible for acting in conjunction with the student's application for, or receipt of, financial aid.
  - e. Authorized individuals or organizations conducting studies for or on behalf of the University for the purpose of developing, validating, or administering predictive tests; for administering student aid programs; and for improving instruction. These studies must be conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of the University or such organizations. This information is to be destroyed when it is no longer needed for the purpose for which it was collected. Authorization for such activities will come from the appropriate vice president.
  - f. Accrediting organizations for purposes necessary to carry out their functions.
  - g. A complainant student of discriminatory or harassing behaviors or other act of violence or non-forcible sexual offense, of the results of any disciplinary proceeding regarding an alleged perpetrator of that act (see Department of Education, "[Dear Colleague Letter](#)," April 4, 2011, [20 USC § 1232g\(b\)\(6\)](#); and [34 CFR § 99.31\(a\)\(13\)](#)).
  - h. Persons in an emergency, if the knowledge of information, in fact, is necessary to protect the health or safety of the student or others.

- i. Parental notification for alcohol or drug offenses by a student under the age of 21. University policy regarding parental notification is found in the [Annual Security and Fire Safety Report](#).
    - j. In response to a lawfully issued court order or subpoena.
  2. The disclosure of educational records to family members and in response to subpoenas will be carried out as follows:
    - a. University officials are expected to comply with lawfully issued judicial orders and subpoenas. A reasonable attempt will be made to notify a student of the University's intention to comply with court orders, unless directed otherwise by court order.
    - b. Spouses or other family members of students may receive student record information when a written consent form is submitted by the student.
    - c. Records of former students are confidential except for directory information. The University may release without written consent directory information on any student not currently enrolled unless that student has requested otherwise.
    - d. The records of deceased students may be released or disclosed at the request of a parent, personal representative, or other qualified representative of the student's estate, or pursuant to a court order or subpoena.
  3. Upon written request, the University will provide student access to a student's own educational records with the exception of:
    - a. Financial aid records of the student's parents or guardian;
    - b. Confidential letters of recommendation when the student has signed a waiver of right-of-access, or letters of recommendation written prior to January 1, 1975, providing such letters are used only for the purpose for which they were specifically intended.
  4. Students may waive their access to records.
    - a. A student may sign a waiver of right-of-access to confidential recommendations concerning admission, application for employment, and/or application for an honor or honorary recognition. In such cases the student, upon request, will be notified of the names of individuals making such confidential recommendations. These recommendations are to be used solely for the purpose for which they were intended.
    - b. In the event a student refuses to sign a waiver of access, such an act may not be considered as a condition for admission, receipt of financial aid or any other service or benefit from the University.
  5. Since the University does not maintain a central repository for student records, inquiries for access to specific educational records should be made to the University office or agency responsible for a particular record. Requests for assistance in locating individual educational records may be directed to the Office of the Vice President of Student Affairs. Within a reasonable time period, University personnel must produce for inspection all records, with the exception of those previously noted, which pertain to that student. Access to records should occur as soon as reasonably practicable, but in no instance more than 45 days after the

- request. Students seeking access to their records are subject to the following procedure:
- a. Student must provide proper identification;
  - b. Students are free to examine the content of the record;
  - c. No materials are to be removed from the record; and
  - d. Designated staff or personnel should review and interpret the contents of the record with the student.
6. A student has the right to ask the University to amend the education record if the student believes the records relating to the student contain information that is inaccurate, misleading, or in violation of the student's right of privacy. The student should write the University official responsible for the record, clearly identify the part of the record they want changed, and specify why it is inaccurate. When a student has challenged specific data or information and has requested amendment of the record:
- a. The designated department or staff member may agree to amend selected information; or,
  - b. In the event the designated department or staff member does not concur with the student's request to amend the information, the student should follow the procedures developed by the department and/or college in which the department is located.  
Note: In the event of a challenge to a grade, the student must first follow the Academic Grievance procedures defined in the *Code*.
  - c. If after following the above procedures, resolution has not occurred (that is, the student still feels the record is inaccurate or misleading), the student may submit, in writing, a request for a hearing to the University Registrar.
  - d. Hearings will be conducted by a University official who does not have a direct interest in the outcome of the hearing. The student will be afforded a full and fair opportunity to present evidence relevant to the reasons for the challenge. The hearing officer will render a decision, in writing, noting the reasons and summarizing the evidence presented within a reasonable period of time after the challenge is filed.
  - e. Should the appeal be in favor of the student, the record will be amended accordingly. Should the request be denied, the student may choose to place a statement with the record commenting on the accuracy of the information in the record and/or setting forth any basis for inaccuracy. When disclosed to an authorized party, the record will always include the student's statement and notice of the board's decision, as long as the student's record is maintained by the University.
7. For records to be released other than as outlined in the *Code*, there must be a written consent form completed by the student.
8. If the student has previously signed a waiver releasing their records and wishes to revoke this waiver, the student must make a request in writing at the Registrar's Office to revoke the waiver.
9. Each University office which releases student records must maintain permanently in the student's file a signed written form indicating the date of release for records (except when

- released to University personnel) and the legitimate educational or other interest that each person, University employee, agency, or organization had in seeking the information.
10. Student record information can be transferred to a third party for an approved purpose only on the condition that the third party will not in turn release the record to another party. This third party limitation will be noted on all information released to the third party.
  11. Areas of the University maintaining educational records are required to have a copy of their records policy available to students.
  12. Disclosure of University of North Dakota graduation rates: The University of North Dakota graduation rate information is available online at: <https://und.edu/academics/registrar/graduation-rates.html>. A paper copy of this report is also available by calling the Office of the Registrar at 701.777.2711.

## C. Treatment Records

1. A student's medical records are exempt from FERPA's definition of education records so long as they meet the definition of "treatment records." Treatment records are records that are made or maintained by a health care professional; are used only for your medical or psychological treatment; and are available only to treatment providers. Treatment records are not subject to the HIPAA Privacy Rule's restrictions on use and disclosure.
2. Treatment records are maintained by the University under the guiding principles of FERPA. Treatment records will only be released as allowed in this section or after receiving a written request from the student.
3. A student's treatment records are confidential and are available to the student at the student's request through the office that maintains the record. The University may arrange for a healthcare provider to be with a student when the student reviews their treatment records in order to explain the records and/or answer any questions.
4. HIV, drug and alcohol, and other case sensitive information will not be disclosed without an explicit request from the student. A special release of information is required which authorizes the specific information to be disclosed.
5. FERPA regulations list other situations in which the University may disclose a student's medical or treatment records without prior written consent. See section 2(1)(a)-(j) above. If a student's medical or treatment record is released for any purpose other than treatment, the released record becomes an education record and is released according to FERPA. The following are examples where the University may disclose a student's medical or treatment records without consent:
  - a. To comply with a lawfully issued court order or subpoena;
  - b. Disclosure to a court in connection with a legal proceeding involving the University and a student or the student's parents;
  - c. Disclosure in connection with a health or safety emergency if knowledge is necessary to protect the health and safety of a student or other persons
  - d. Disclosure according to North Dakota state law.
6. Contact your health care professional's office for information pertaining to patient rights and responsibilities including how your information may be shared with others.

7. In situations in which it has been determined that a student's life is in danger or in which their condition results in a danger to others, the facts pertaining to this danger may be communicated to the student's nearest responsible relative, without the student's consent, if judged necessary by the student's primary healthcare provider.

## D. Law Enforcement Records

Records generated by UPD personnel are assignable into two categories: administrative and law enforcement. Some records may be assignable into both.

1. Administrative records, including those created by UPD personnel, are maintained for the benefit and purposes of the University, and include those referred to OSRR, Housing, or other offices for educational purposes, such as disciplinary action(s), are educational records.
2. Law enforcement records, which for this section are those records submitted to the states attorney's office ([NDCC, Chapter 11-16](#)) or other criminal court division. Law enforcement records are subject to the North Dakota open records laws ([NDCC, Chapter 44](#)).

## E. Official Transcripts of Academic Records

1. The registrar compiles, maintains, and administers official transcripts of record.
2. Each student's official transcript of record may include, but is not limited to, the following information:
  - a. Legal name of student;
  - b. Date of birth;
  - c. Name of the high school attended and the year of graduation;
  - d. Transfer credits or summary of credits accepted in transfer, if any;
  - e. Courses taken, hours completed, grades received, grading system, and grade point average;
  - f. A statement of probation/dismissal;
  - g. President's Honor Roll, Degree, Honors;
  - h. Academic degree(s) granted by the University;
  - i. Date(s) of graduation from the University.
3. The Office of the Registrar will send, issue, or release a student's official transcript or record only:
  - a. At the student's written request; or,
  - b. In accordance with the Student Records section of the *Code*.
4. A transcript or record will contain the information described in the Official Transcripts of Academic Records section of the *Code*, and will not be furnished in part or with information omitted or deleted.
5. The registrar maintains a register of requests for official transcripts. This register of requests is part of the student record.



6. A student who fails to pay a debt owed to the University may have their official transcript withheld until the debt is paid.
7. The president or VPSA may withhold the issuance of an official transcript for an academic degree pending a hearing against a student who violates a rule or regulation of the University when, in the opinion of the official, the interest of the University would be served by interim action.

## F. Annual Notice

The University of North Dakota gives annual notice of the following to students attending the University:

1. Rights guaranteed under the Family Educational Rights and Privacy Act (FERPA) of 1974 as amended and this policy;
2. Locations where copies of this policy may be obtained; and
3. The right to file a complaint regarding a violation of FERPA with:  
The Office of the Registrar:  
264 Centennial Drive, Stop 8382 Room 201  
Grand Forks, ND 58202-8382  
Phone 701.777.2711  
Fax: 701.777.2696  
E-mail address: [scott.correll@und.edu](mailto:scott.correll@und.edu)  
or with  
The Family Policy Compliance Office, U.S. Department of Education  
400 Maryland Avenue SW  
Washington, DC 20202-5920  
The complaint must contain specific allegations of fact giving reasonable cause to believe that a violation of the Act has occurred. The U.S. DOE will investigate each timely complaint to determine if the institution has failed to comply with the provisions of FERPA.
4. The VPSA is responsible for ensuring that this notice is published at least once each year in this document. A copy of the current *Code* is available online to each student and also is available in each University office maintaining educational records.

## VII. Definition of Terms

- a. **Accused Student.** Accused student applies to a student, or student organization, who is alleged to have violated the *Code*.
- b. **Complainant Student.** Complainant student applies to a student, or student organization, who has filed a complaint. A student may be considered a complainant student even if another member of the University community submitted the complaint itself.
- c. **Faculty Member.** All members of the academic staff, excluding only coaches and administrators in their capacities as coaches and administrators ([SBHE Policy 605.1](#)).
- d. **Hearing Officer.** The hearing officer is responsible for reviewing the investigation and determining recommendations on behalf of the University as it relates to alleged violations of the *Code* and, when applicable, sanctions. When applicable, the hearing officer is also responsible for presenting recommendations to the hearing panel. A hearing officer is a

student conduct administrator.

- e. **Investigator.** If a complaint warrants an investigation the University will assign an investigator to review the complaint. The University may choose to hire an external investigator to investigate a complaint.
- f. The investigator is responsible for gathering information not for determining responsibility as it relates to possible violations of the *Code*.
- g. **Members of the University Community (University Community).** Members of the University community includes students, faculty, staff, and administrators of the University.

- h. **Personal Advocate.** The accused, and if applicable, complainant, student may each have one personal advocate present during all portions of the student conduct process in which the student participates.

A personal advocate may, but does not need to, be an attorney. An attorney who is serving as a personal advocate is expected to follow the North Dakota Rules of Professional Conduct. If a student selects a personal advocate who is an attorney the University reserves the right to reschedule any portion of the student conduct process to ensure the University's legal representation may also be present. To assist in scheduling, the University asks that a student notify the University of their intent to have an attorney as a personal advocate.

Advocates are selected by the student. The student is responsible for sharing and communicating all information with their personal advocate unless other arrangements are made. If applicable, the student is responsible for any and all expenses associated with the personal advocate.

A student should select a personal advocate whose schedule allows attendance at a previously scheduled date and time for any portion of the student conduct process. If a student has selected a personal advocate prior to a portion of the student conduct process being scheduled, the student can provide their personal advocate's contact information and availability for consideration in scheduling.

If the personal advocate is unable to attend a previously scheduled student conduct proceeding, the student is encouraged to inform OSRR that their personal advocate is unable to attend. Upon request the student conduct proceeding may be rescheduled.

In any student conduct process the personal advocate has the right to provide support, guidance, and advice to the student. Personal advocates may not disrupt student conduct proceeding.

In a student conduct suspension process the personal advocate has the right to represent the student. Representing the student includes making opening and closing statements, calling and questioning witnesses, and providing support, guidance, and advise to the student. The student may limit their personal advocate's role within the student conduct suspension process. A personal advocate cannot serve in another role during the student conduct process.

- i. **Process Advisor.** A process advisor is appointed to an accused student and, if applicable, the complainant student involved in a suspension process. The process advisor helps the accused student understand the suspension process, assist the student in preparing for the process, coordinates interim measures, and serves in a support capacity during the process. The process advisor has no standing in the process, does not represent the student in the process, does not have speaking privileges during a hearing, and must not disrupt the process. A student may request a different process advisor. Such a request should be made in writing

and directed to the dean of students.

- j. **Student.** For purposes of this *Code*, the term student applies to all persons taking courses at and/or receiving instruction through the University, whether credit hours are earned, full-time or part time, pursuing undergraduate, graduate, non-degree, or professional studies. The term student includes all persons who withdraw after allegedly violating the *Code*, who are not enrolled for a particular term but have a continuing relationship with the University, who have been notified of their acceptance for admission, or who are living in University residence facilities designated for students regardless of their current enrollment status. The term student includes both a student acting as an individual and to students acting in a group and/or a student organization, unless otherwise noted.
- k. **Student Conduct Administrator (SCA).** SCAs are the individuals identified or appointed by the University to manage the student conduct process, conduct an investigation, or to serve as a decision-maker.
- l. **Student Organization.** The term student organization means any number of persons who have complied with the formal requirements for University recognition/registration.
- m. **Student Organization Advisor.** The term student organization advisor means a person registered in the Student Involvement Center to act in an advisory role for a student organization.
- n. **University Premises.** The term University premises means all land, buildings, facilities, and other property in possession of, or owned, used, or controlled by the University (including adjacent streets and sidewalks).
- o. **Witness.** Anyone who is believed to have information that that may be relevant to a determination of violation of the *Code*.

## VIII. APPENDICES

### A. Dismissal/Grievance Procedures for Student Employees

#### 1. Dismissal Procedure

If a student employee's performance proves unsatisfactory, the supervisor will advise the student of the dissatisfaction and indicate what improvements are necessary. If the problem is not resolved, termination procedures may be initiated and the student employee notified of the release. Departments must notify the student of unsatisfactory performance due to inefficiency, inability to perform an assigned task, tardiness, etc. and provide a minimum of two weeks for the problem to be resolved before termination procedures are initiated. However, a student employee may be dismissed immediately from employment without prior notice for just cause including dishonesty, insubordination, gross negligence, or conduct unbecoming an employee in which the health, welfare, or safety of another employee/ employer, person, or the workplace is negatively affected.

If a student employee feels they have been treated unfairly or has a justifiable complaint that could not be resolved through a discussion with the immediate supervisor, the student should contact the

supervisor's supervisor. The supervisor's supervisor will attempt, through discussion with the student employee and/or the supervisor, to resolve the grievance and file documentation and their decision is final.

## **2. Informal Grievance Procedure**

If a student employee feels they have been treated unfairly or has a justifiable complaint that could not be resolved through a frank discussion with the immediate supervisor, the student should contact the supervisor's supervisor or the Student Financial Aid Office. The director of student financial aid or designee within the Student Financial Aid Office will attempt, through discussion with the student employee and/or the supervisor, to resolve the grievance and file documentation.

## **3. Formal Grievance Procedure**

If, after these conversations, the aggrieved student is still not satisfied, the student may pursue the formal grievance procedure. The vice provost of strategic enrollment management (VPSEM) or designee will act as a facilitator to assist in the grievance procedure. The student employee's first step is to submit a written grievance to the VPSEM within five business days after the contact with the Student Financial Aid Office relative to the informal grievance discussion.

The VPSEM or designee will assemble the Student Employee Grievance Board within 10 business days of the receipt of the written grievance. The Board will be diversified and comprised of three members appointed by the VPSEM or designee and will consist of two staff and/or faculty members and one student.

All proceedings of the Student Employee Grievance Board will be administered by the VPSEM or designee. The Student Employee Grievance Board will meet with the persons concerned in the case. The Board meeting must be closed unless the aggrieved student employee requests an open meeting. The student employee and the department involved may be present and each may have one representative of their choosing present during the testimony. Each party may have other individuals provide information at the meeting. The names of those to present information must be submitted in writing to the VPSEM or designee at least two business days prior to the meeting and the relevance of each person should be stated.

Within five business days after the meeting, the Student Employee Grievance Board will forward written notification of its decision to the student employee, the department involved, and the VPSEM or designee.

If the student employee is not satisfied with the Student Employee Grievance Board's decision, the student should, within five business days of the Grievance Board's decision, submit a written appeal to the VPSEM. Within ten business days after receiving the appeal, a final decision by the VPSEM will be made. The VPSEM will announce the decision by a written communication to the student employee, the employing department, and the director of student financial aid.

## B. Academic Concerns/Information/Freedom

The University's commitments to academic quality and integrity, as well as to academic freedom, rest upon honesty and fairness in all aspects of scholarly endeavor. Faculty must test, grade, and review student work in a manner that is fair and reasonable, and students must maintain scholastic honesty beyond reproach. Disputes that arise about fairness and honesty are best resolved through open and sincere communication among all parties – students, faculty, committees, and administrators. This section on academic concerns addresses procedures for resolving academic grievances, instances of scholastic dishonesty, and concerns about communications proficiency.

### 1. Academic Grievances

#### a. Definition

The term "academic grievance" is defined as: a statement expressing a complaint, resentment, or accusation lodged by a student about an academic circumstance (such as grading, testing, quality of instruction) which is thought by the student to be unfair.

Academic issues subject to grievance procedures differ from those subject to the academic petition process. The petition process includes a request by the student to have a University, college, or program requirement waived or modified. It may include the right to appeal under circumstances outlined in the petition process. The substance of petitions and appeals is under the jurisdiction of individual colleges, schools, programs, or designated University committees. If a student thinks that a petition has not been handled fairly, the student may initiate a grievance based upon unfair treatment, but not upon the substantive issue.

#### b. The Grievance Process

- i. Each undergraduate, graduate, and professional school or college shall have written procedures for academic grievances. Unless a school or college has specified a shorter time, a student must initiate a grievance within 120 calendar days from the recording of the final grade (including an "Incomplete") in the course in which the grievance arose. These procedures are to begin with discussion between the grieving student and the Faculty Member, committee, or administrator with whom the student has a grievance. If the grievance is not resolved at this stage, then the student may advance the grievance through the procedures of the college or school in which the grievance originated. (In grievances brought by Graduate School students that involve Graduate School policies, the relevant school is the Graduate School.)
- ii. Grievances not resolved at the level of the academic unit may be brought by any of the parties to the Student Academic Standards Committee (Registrar's Office) within 30 calendar days of the final decision of the academic unit (college/school). If the grievance results from an action of a committee not associated with a specific college, it may be taken directly to the Student Academic Standards Committee. Grievances must be presented in writing to the chair of the committee. This written statement should describe the grievance, indicate how it affects the individual or unit, and include the remedy sought from the committee. All documents pertinent to the review must accompany the grievance. It will be the committee's charge to review the academic grievance, consult with all parties significantly involved in the grievance, tape record

its proceedings, and make a final decision within a reasonable length of time (not to exceed 20 school days, except upon agreement of the parties or the inability of the committee to make a quorum) after the grievance has been filed. All submitted documents will be made a permanent part of the student's educational record. A copy of the decision will be sent to the originator of the grievance, the dean of the unit involved, and those against whom the grievance originated. This committee has the authority to resolve the grievance by such actions as upholding an earlier decision, requiring a re-examination or review, and, in extreme cases, changing a grade. The committee, however, has no authority to take or recommend disciplinary action in these cases either with faculty, administrators, or students or to require permanent changes in classroom, administrative, or committee procedures. The decision of this committee is the final step in the University Academic Grievance process.

- iii. Students who wish to challenge specific data or information in an educational record or who wish to amend their records should refer to the Educational Records section of the *Code* for procedures.

## 2. Communications Proficiency of Faculty

Since some instructional personnel do not have native or native-like English-language proficiency, students may experience difficulty understanding them. Students are encouraged to make an effort to become accustomed to an unfamiliar accent or dialect, but if the difficulty is pervasive, should act before the term is so advanced that resolution becomes difficult. In this circumstance, students may register a complaint by initiating the following procedure.

- i. The student has multiple points of entry for reporting a perceived problem. Concerns about an instructor's English language proficiency are investigated by the associate provost. The initial report may be made to the Office of the Provost, the Office of Student Rights & Responsibilities, or to the dean of the college, or the chair/director of the department/school in which the course is offered. **Problems should be reported within 15 working days (three weeks) of the beginning of a term**, after the student has made an effort to become accustomed to an unfamiliar accent or dialect but before the term is so advanced that resolution becomes difficult. In all cases, the Provost's Office must be notified when a student has registered a complaint.
- ii. It is the department chair's responsibility, in conjunction with the provost or designee, to determine the extent of the perceived problem (e.g., how many students are experiencing difficulty) and then to provide a solution. Suggested solutions include, but are not limited to, moving the student(s) to a different section, replacing the instructor, or offering the student(s) with difficulty special tutorial assistance along with regular participation in the class.
- iii. Students who believe that the resolution of their complaint was unfair have a right to file an academic grievance. Procedures for filing grievances are specified in Academic Grievances section of the *Code*.
- iv. The complete Policy on Communications Proficiency can be obtained from the offices of the Provost or the Vice President for Student Affairs or the Office of Student Rights & Responsibilities.

### 3. Academic Probation/Dismissal Policy

#### a. Undergraduate

- i. Any student who does not maintain minimum academic requirements is subject to placement on probation or to suspension or dismissal from the University.
- ii. See Undergraduate Probation, Suspension, and Dismissal Policy in the Undergraduate Academic Information section of the Academic Catalog.

#### b. Graduate

- i. Please refer to the Graduate Academic Catalog section on Academic Standards.

### 4. Financial Aid Information

#### a. Federal Student Financial Aid Penalties for Drug Law Violations

Upon enrollment, the Higher Education Opportunities Act (HEOA) mandates each institution must provide written notice that advises the student that a conviction (while receiving financial aid) of any offense involving the possession or sale of illegal drugs will result in a loss of federal student eligibility.

When completing the Free Application for Federal Student Aid (FAFSA), question 23 asks if the students have ever been convicted of a drug-related offense. Answering the question untruthfully could result in fines, imprisonment, or both.

Convictions count only if they were for an offense that occurred during a period of enrollment for which the student was receiving federal aid. A conviction does not count if it was reversed, set aside, removed from the student's record, or if the conviction occurred when the student was a juvenile (unless the student was tried as an adult).

According to the law, the following chart indicates the period of ineligibility for federal student aid. (A conviction of sale of drugs includes conviction for conspiring to sell drugs.)

	Possession of Illegal Drugs	Sale of Illegal Drugs
First Offense	One year from date of conviction	Two years from date of conviction
Second Offense	Two years from date of conviction	Indefinite period
Third Offense	Indefinite period	

A student regains eligibility the day after the period of ineligibility ends or when they successfully complete a qualified drug rehabilitation program that includes passing two unannounced drug tests given by such a program. Further drug convictions may affect future financial aid eligibility.

#### Standards for a qualified drug rehabilitation

A qualified drug rehabilitation program must include at least two unannounced drug tests and must satisfy at least one of the following requirements:

- i. Be qualified to receive funds directly from a federal, state, or local government program;

- ii. Be qualified to receive payment directly or indirectly from a federally or state-licensed insurance company;
- iii. Be administered or recognized by a federal, state, or local government agency or court; or
- iv. Be administered or recognized by a federal or state-licensed hospital, health clinic, or medical doctor company.

## **b. Additional Financial Aid Information**

For more general information regarding financial aid please contact One-Step Student Services, 701.777.1234.

## **5. Academic Freedom ([SBHE 401.1](#))**

The University's statement regarding academic freedom is available in the [Faculty Handbook](#).

# **C. Notice of Federal Compliance**

## **1. Notice of Annual Security & Fire Safety Report**

In compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, the University of North Dakota publishes an Annual Security and Fire Safety Report. The report includes the university's policies, procedures, and programs concerning safety and security, as well as three years' of crime statistics for our campus. As a student, you are entitled to a copy of this report. The report and statistical data can be found online at [http://und.edu/discover/\\_files/docs/annual-security-report.pdf](http://und.edu/discover/_files/docs/annual-security-report.pdf). You may also request a paper copy of the report from the UND Police Department located at 3851 Campus Road, Grand Forks, ND, 58202.

## **2. Notice of Title IX and VAWA Compliance**

Title IX of the Education Amendments of 1972 (Title IX), and its regulation, prohibit discrimination on the basis of sex and/or gender in education programs and activities operated by recipients of federal financial assistance. Sexual harassment that creates a hostile environment, including sexual assault and other forms of sexual misconduct, is a form of discrimination prohibited by Title IX. The regulation implementing Title IX requires that the University adopt and publish grievance procedures providing a prompt and equitable resolution of complaints that allege any action that would be prohibited by Title IX, including sexual assault, sexual harassment, and other forms of sexual misconduct. Similarly, the Violence Against Women Reauthorization Act of 2013 (VAWA) requires prompt, fair and impartial investigation and resolution of allegations of stalking, dating violence, and domestic violence.

For complaints regarding sexual assault, harassment, or other forms of misconduct UND uses the procedures outlined within the *Code* and the [Title IX and Sexual Violence policy](#).

## **3. [Notice of Non-Discrimination](#)**

The University of North Dakota (UND) is committed to the principle of equal opportunity in education and



employment. UND does not discriminate on the basis of race, color, national origin, religion, sex, age, disability, sexual orientation, gender identity, genetic information, creed, marital status, veteran's status, political belief or affiliation or any other status protected by law. Pursuant to Title IX of the Education Amendments of 1972, UND does not discriminate on the basis of sex in its educational programs and activities, employment and admission. UND will promptly and equitably investigate reports of discrimination or harassment and take disciplinary action as appropriate.

Retaliation in any form against a person who reports discrimination or participates in the investigation of discrimination is strictly prohibited and will be grounds for separate disciplinary action.

The University's policies and procedures for complaints of discrimination or harassment are found at:

- [Discrimination and Harassment Policy](#)
- [Code of Student Life](#)

Concerns regarding UND's equal opportunity and nondiscrimination policies, including Title IX, Title VI, Title VII, ADA, and Section 504 may be addressed to:

Donna Smith  
[Assistant Vice President for Equal Opportunity & Title IX](#)

Title IX/ADA Coordinator  
 Twamley Hall Room 102  
 264 Centennial Dr Stop 7097  
 Grand Forks, ND 58202-7097  
 P: 701.777.4171  
[UND.EO.TitleIX@UND.edu](mailto:UND.EO.TitleIX@UND.edu)  
[donna.smith@UND.edu](mailto:donna.smith@UND.edu)



A complaint or concern regarding discrimination or harassment may also be sent to the Office for Civil Rights, U.S. Department of Education, 500 West Madison, Suite 1475, Chicago, IL 60611; phone 312.730.1560; fax 312.730.1576; email [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov); or any other federal agency.

## Approval Signatures

Step Description	Approver	Date
President	Andrew Armacost: President	08/2022
Executive Council (2nd Reading)	Jennifer Rogers: Policy Office	07/2022
Campus Comment	Jennifer Rogers: Policy Office	06/2022
Executive Council (1st Reading)	Jennifer Rogers: Policy Office	06/2022

Policy Advisory Group	Jennifer Rogers: Policy Office	06/2022
Policy Office	Jennifer Rogers: Policy Office	06/2022
Policy Owner	Alex Pokornowski: Dean of Students, DOS/VPSA PAG Liaison	06/2022

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