



Sexual Misconduct Policy

Source: NDSCS President

Applies to: All Employees and Students

Purpose: NDSCS does not tolerate sex or gender discrimination, including sexual misconduct such as sexual harassment and sexual assault, stalking, and intimate partner violence in NDSCS’s educational program and activities. In the best interest of the college, NDSCS has adopted the Sexual Misconduct Policy, which includes investigation and disciplinary procedures that will be followed in response to allegations of sexual misconduct not covered by NDSCS Title IX Compliance Policy.

1. Introduction

NDSCS strives to create a College community free from interpersonal abuse including sexual misconduct. In working to achieve this intent, NDSCS commits to:

- Responding to complaints or reports of prohibited conduct in a reasonably prompt timeframe;
- Taking action to stop sexual misconduct and prevent recurrences;
- Taking action to remediate any adverse effects of such conduct on campus by providing advocacy, support and appropriate referral services for recipients of the behavior; and
- Educating individuals and promoting discussions on sex or gender discrimination, sexual misconduct, and violence.

All forms of prohibited conduct under this policy are regarded as serious College offenses, and violations will result in discipline, including the possibility of termination, suspension, or expulsion from the College. State and federal laws also address conduct that may meet the College's definitions of prohibited conduct, and criminal prosecution may take place independently of any disciplinary action instituted by the College.

NDSCS has an obligation to conduct a prompt and impartial investigation of all complaints or reports of sexual misconduct not covered by NDSCS Title IX Compliance Policy through fair and equitable procedures. Once made aware, the College must conduct an investigation regardless of how the information was brought to the College's attention or the extent to which the complainant wishes to participate or be involved. All individuals have access to confidential resources that they may use for support and guidance.

NDSCS encourages all individuals to report any alleged or suspected violation of this policy through the NDSCS concern page (www.ndscs.edu/concern) as available and to report potential criminal conduct to law enforcement.

The NDSCS Title IX Coordinator and Deputy Coordinator's contact information is as follows:

Sandi Gilbertson
Executive Director for Human Resources
Title IX Coordinator
Haverty Hall, 136
North Dakota State College of Science
800 Sixth St. North
Wahpeton, ND 58076-0002
Phone: 701-671-2904
Email: sandi.gilbertson@ndscs.edu

Melissa Johnson, M.S.
Executive Director of
Student and Residential Life
Deputy Title IX Coordinator
Riley Hall, 130
(701) 671-2520
Melissa.J.Johnson.3@ndscs.edu

a: Coverage/Jurisdiction

This policy governs the conduct of NDSCS students; faculty; staff; and third parties (i.e., non-members of the College community, such as vendors, alumni, visitors, or local residents). This policy applies to conduct that occurs on NDSCS property (i.e., on campus) and to conduct that occurs off College property when the conduct is associated with a NDSCS sponsored program or activity, such as travel, research, or internship programs or when such conduct may have a continuing adverse impact or could create a hostile environment. Coverage/jurisdiction will depend on the facts of each incident.

b: Support Available to Parties (and witnesses)

The Title IX Coordinator will be informed of all complaints or reports of violations of this policy and oversee the College's centralized response to ensure compliance with this policy and applicable laws. The Title IX Coordinator's activities include (but are not limited to):

- Communicating with all members of the College community regarding this policy and prohibited behavior, and providing information about how individuals may access their rights;
- Reviewing applicable College policies to ensure institutional compliance with this policy;
- Monitoring the College's administration of its own applicable policies, including record keeping, timeframes, and other procedural requirements;
- Conducting training regarding prohibited conduct defined in this policy; and
- Responding to any complaint or report regarding conduct that violates this policy. In this

capacity, the Title IX Coordinator oversees the investigation and resolution of the alleged misconduct, directs the provision of any remedial measures, and monitors the administration of any related appeal.

The Title IX Coordinator may delegate responsibilities under this policy to designated administrators, who are appropriately trained.

2. Prohibited Conduct

In determining whether alleged conduct violates this policy, the College will consider the totality of the information and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred. Specifically, formal Complaints of Sexual Harassment occurring in NDSCS Educational Programs or Activities within the United States (“Title IX Complaints”) shall be resolved by the Title IX Grievance Procedures outlined in NDSCS Title IX Compliance Policy and SBHE Policy 520. All other complaints of Sexual Harassment shall be resolved by this Policy, or other applicable policy.

Individuals of any gender/sex can commit any of the prohibited conduct defined in this policy. The prohibited conduct can occur between individuals of the same gender or different genders, between strangers or acquaintances, as well as people involved in intimate or sexual relationships. Prohibited conduct under this policy includes but is not limited to the following:

a: Sexual Misconduct

Sexual Misconduct is any non-consensual behavior of a sexual nature that is committed by force, intimidation, or is otherwise unwelcome that is sufficiently severe, persistent, or pervasive so as to limit a student's ability to participate in or benefit from a NDSCS program or activity.

Depending on the circumstances, a single incident of sexual misconduct may be sufficient to limit a student's ability to participate in or benefit from an NDSCS program or activity.

All forms of sexual misconduct are serious offenses and will result in NDSCS disciplinary consequences. Sexual misconduct involving force, duress, or inducement of incapacitation, or where the perpetrator has deliberately taken advantage of another person's state of incapacitation, will be deemed especially egregious and may result in expulsion or termination of employment. The consumption of alcohol or the use of illegal substances does not constitute a mitigating circumstance when it contributes to a violation regarding sexual misconduct.

b: Sexual Assault

Sexual Assault is any sexual act between two or more people to which one person does not or cannot consent. This includes sexual acts or contacts with others that can involve:

- Compelling a person to submit to sexual acts or contact by force, threat of force, or intimidation;
- Use of intoxicants to substantially impair the person's power to give consent see section 3b for more information; or
- A victim under the age of consent. (Note: the age of consent may vary depending on the ages of the individuals involved in the act and where the act occurs.)

c: Sexual Acts:

Sexual acts include, but are not limited to the following actions:

- Sexual intercourse;
- Sodomy (oral and/or anal);
- Sexual penetration with any object;
- Sexual touching of a person's intimate parts (genitalia, groin, breasts, buttocks, mouth or other bodily orifice or the clothing covering them); or
- Compelling a person to touch his or her own or another person's intimate parts.

d: Sexual Harassment

Sexual Harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic achievement;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting such individual; or
- Such conduct has the effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment.

e: Sexual Exploitation

Sexual Exploitation means taking sexual advantage of another person without consent. Examples include but are not limited to:

- Causing the incapacitation of another in order to take sexual advantage of the person;
- Distributing or publishing sexual information;
- Engaging in indecent exposure;
- Engaging in voyeurism (the viewing of another for sexual gratification);
- Invasion of sexual privacy;
- Knowingly exposing another to a STD/STI or HIV;
- Prostituting another person; or
- Recording, photographing, or relaying sexual sounds or images.

f: Stalking

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

g: Retaliation

Retaliation is any adverse action taken against a person because of their participation in a protected activity, alleging sexual misconduct, supporting a complainant or for assisting in providing information relevant to a claim of sexual misconduct. Retaliation can take many forms, including abuse or violence, threats, and intimidation. Actions in response to a good faith report or response under this policy are considered retaliatory if they have a materially adverse effect on the working, academic or College-controlled living environment of an individual; or if they hinder or prevent the individual from effectively carrying out their College responsibilities. Any individual or group of individuals can engage in retaliation and will be held accountable under this policy. Reports of retaliation shall be communicated to the Title IX Coordinator, Deputy Coordinator(s) or through the NDSCS concern page (www.ndscs.edu/concern).

h: Dating/Domestic/Relationship Violence

Dating/Domestic/Relationship violence is physical, sexual, emotional abuse from another person who is a spouse/former spouse, person who you have dated, or are presently dating, person with whom you have had sexual relations with, person who is, or person with a familial relationship to you (e.g. parent, grandparent, cousin)

i: Coercion

Coercion is unreasonable pressure to engage in sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

j: Intimidation

Intimidation is implied threats or acts intended to compel or deter the action of another person.

k: Complicity

Any act that knowingly aids, facilitates, promotes, or encourages the commission of prohibited conduct by another person. Any individual found responsible for complicity in prohibited conduct will be subject to the disciplinary procedures and sanctions outlined in this policy.

3. Policy Terminology

The following definitions clarify key terminology as used throughout the policy:

a: Intimate Relationship

An intimate relationship is a relationship between persons of any gender that provides romantic physical intimacy or emotional dependence.

Intimate relationships may include (but are not limited to) marriages, civil unions, dating relationships, "hook-up" relationships, relationships in which partners are characterized as "girlfriends" or "boyfriends," and relationships between persons with a child in common.

b: Consent

In reviewing possible violations of sexual misconduct, NDSCS considers consent as:

- Words or actions showing a clear, knowing and voluntary agreement to engage in a specific sexual activity during a sexual encounter; or
- An affirmative, unambiguous, and voluntary decision given by clear actions or words;

Consent may **not** be inferred from:

- Silence, passivity, or lack of active resistance alone;
- A current or previous dating or sexual relationship;
- Consent to one form of sexual contact does not imply consent to other forms of sexual contact;
- When the person suffers from a mental state that renders him or her incapable of understanding the nature of the contact. This includes, but is not limited to, situation when an individual is intoxicated, "high", scared, physically or psychologically pressured or forced, mentally or physically impaired, beaten, isolated, or confined.

c: Incapacitation

In the context of this policy, incapacitation is a state in which someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction). An individual who is incapacitated is unable to consent to a sexual activity. Engaging in sexual activity with an individual who is incapacitated (and therefore unable to consent), where a person knows or should have reasonably known that the individual is incapacitated constitutes sexual misconduct.

d: Complainant

The term complainant refers to the individual(s) who has been the subject of prohibited conduct, regardless of whether that individual makes a complaint or seeks disciplinary action.

e: Respondent

The term respondent refers to the individual(s) who has been accused of prohibited conduct.

f: Confidentiality and Privacy

Issues of privacy and confidentiality play important roles in this policy, and may affect individuals differently. Privacy and confidentiality are related but distinct terms that are defined below.

g: Interim Measures

When warranted by the circumstances surrounding a complaint or report of a violation of this policy, the College will provide reasonable and appropriate interim measures designed to preserve the complainant's educational experience, the safety of all parties and the College community, maintain the integrity of the investigative process, and deter retaliation. The College may provide interim measures regardless of whether the complainant seeks formal disciplinary action. Potential interim measures include, but are not limited to:

- Providing an escort to the complainant so that they may move safely on campus;
- Issuing a no contact order to the parties, prohibiting any contact between the parties;
- Moving the complainant and/or respondent to different on-campus housing;
- Altering the class schedule of the parties so that they do not attend the same classes;
- Providing counseling services; and providing academic support services.

h: Investigative Team

When possible, the Title IX Coordinator will appoint a two-person investigative team. The College reserves the right to appoint the investigative team of their choice, which may consist of trained individuals employed by the College, or outside investigators appointed by the College. Every effort will be made to provide an investigative team free of any conflict of interest.

i: Advisor:

Advisor means either an attorney or non-attorney advocate who advises a student or employee during the investigative process.

j: Preponderance of the Evidence: In connection with this policy, "preponderance of the evidence" means the evidence is sufficient to establish the proposition is "more likely true than not."

4. Confidentiality

a: Confidentiality and Confidential Resources

The term "confidentiality" refers to the circumstances under which information will or will not be disclosed to others.

The complainant may request confidentiality at the time they disclose the sexual misconduct. However, confidentiality cannot be guaranteed. The Title IX Coordinator or Deputy Title IX Coordinator will evaluate the request and determine the extent to which confidentiality may be maintained. NDSCS will make every attempt to safeguard the privacy of the complainant; however NDSCS cannot ensure confidentiality in all cases. NDSCS must weigh the request for confidentiality against its obligation to protect the safety and security of the entire College. As is the case with anonymous reports, the College's ability to conduct a meaningful investigation of the incident and pursue disciplinary action against alleged perpetrators may be limited when confidentiality has been requested.

Before a student reveals information that he or she may wish to keep confidential, any responsible employee at NDSCS is required to make every effort to ensure that the student understands:

- The employee's obligation to report the names of the alleged perpetrator and student involved in the alleged sexual violence, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX Coordinator or a Deputy Title IX Coordinator;
- The student's option to request that the school maintain his or her confidentiality, which the school will consider; and
- The student's ability to share the information confidentially with counseling, advocacy, health, mental health, or sexual-assault related services (e.g., sexual assault resource centers, student health center, and pastoral counselors).

Depending on the circumstances of the offense (the severity of the offense, the number of victims involved, etc.), NDSCS may be required to respond to an incident, even if confidentiality has been requested. Therefore, NDSCS employees cannot guarantee absolute confidentiality. Individuals desiring confidentiality should be encouraged to contact one of the following:

NDSCS Student Health & Counseling Services

Phone Number: 701-671-2286/2319, 701-298-4500 (after hours)

Address: Riley Hall, Room 113, - 800 6th St. N., Wahpeton, ND 58076

Website: www.ndscs.edu/counseling

NOTE: Disclosure to employees of NDSCS Health & Counseling Services will not initiate an investigation by the College against the student's wishes. These employees are required to report that an incident occurred without revealing any of the victim's personally identifying information. In some circumstances, NDSCS Student Health Service is required by state law report cases involving physical trauma to law enforcement.

Three Rivers Crisis Center

Phone Number: 701-642-2115 (available 24 hours)

Address: 509 Dakota Ave., Suite B

Wahpeton, ND 58075

Someplace Safe

Phone Number: 218-643-3109

Address: 300 5th St. S,

Breckenridge, MN 56520

Rape and Abuse Crisis Center of Fargo-Moorhead

Phone Number: 701-293-7273 (available 24 hours)

Address: 317 8th St. N

Fargo, ND 58102

www.raccfm.com

If criminal activity is involved, students are encouraged to contact NDSCS Police or local law enforcement:

NDSCS Police

Hektner Student Center, 154 (NDSCS - Wahpeton, ND)

701-671-2233 (in case of emergency, dial 911)

Wahpeton Police Department

413 3rd Avenue North Wahpeton, ND

701-642-7722 (in case of emergency, dial 911)

Fargo Police Department

222 4th Street N., Fargo, ND

701-235-4493 (in case of emergency, dial 911)

NDSCS Reporting obligations under the Clery Act: The Jeanne Clery Disclosure of Campus Security Police and Campus Crime Statistics Act (20 USC & 1092(0)) requires colleges and universities across the United States to disclose information about crime on and around their campuses. NDSCS is required to disclose statistics regarding certain types of crime, including sexual assault that occur on and around campus, as well as locations off campus at which NDSCS sponsored activities take place. The Clery Act also requires NDSCS to issue timely warning notices about crimes that pose a serious or on-going threat to the College community.

b: Confidentiality Rights of Complainants and Respondents

Individuals involved in investigations or disciplinary proceedings under this policy are encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation. While discretion regarding the process is important, complainants and respondents are not restricted from discussing and sharing information with others who may support or assist them in presenting their case.

Medical and counseling records are privileged and confidential documents that parties will not be required to disclose.

c: Privacy

The term "privacy" refers to the discretion that will be exercised by the College in the course of any investigation or disciplinary processes under this policy.

The College has an obligation to make reasonable efforts to investigate and address complaints or reports of violations of this policy. In all such proceedings, the College will take into consideration the privacy of the parties to the extent possible.

In cases involving students, the Title IX Coordinator may notify NDSCS Residential and Student Life staff and other College employees of the existence of the complaint for the purpose of overseeing compliance with this policy and addressing any concerns related to educational and residential life. While not bound by confidentiality, these individuals must be discreet and must respect the privacy of those involved in the process.

Any additional disclosure of information related to the complaint or report may be made if consistent with the Family Educational Rights and Privacy Act (FERPA), or the Title IX requirements.

5. Reporting

NDSCS defines all (with the exception of confidential resources) employees as “responsible employees”, and as such, are mandatory reporters. In non-emergency situations, all employees who are not confidential resources must promptly report suspected violations to the Title IX Coordinator or Deputy Coordinator

In emergency situations, if there is a suspected crime in progress, or imminent or serious threats to safety of anyone, employees must immediately contact NDSCS Police or local law enforcement.

a: Options for Complainants and Other Reporting Parties

Anyone who seeks to make a complaint or report may:

- File an online concern at www.NDSCS.edu/concern;
- File a complaint or report with the Title IX Coordinator;
- Request interim measures from the Title IX Coordinator;
- Contact Police for assistance in filing a criminal complaint and preserving physical evidence; and/or
- Contact local law enforcement to file a criminal complaint
- Contact any NDSCS Employee

An individual may pursue some or all of these steps at the same time. When initiating any of the above, an individual does not need to know whether they wish to request any particular course of action, nor how to label what happened. Before or during this decision-making process, complainants and other reporting persons have the option to consult a confidential resource.

b: Filing a Complaint or Report with the Title IX Coordinator

At any time individuals are encouraged to report any alleged violation of this policy. Reports and/or concerns can be made at www.ndscs.edu/concern or by contacting any NDSCS employee.

c: Anonymous Reporting

If a complainant self-identifies but asks to remain anonymous during the investigation, the Title IX Coordinator will consider how to proceed, taking into account the complainant's wishes, the College's commitment to provide a non-discriminatory environment, and the respondent's right to have specific notice of the allegations if the College were to take action that affects the respondent. In such circumstances, the Title IX Coordinator may arrange for limited information-finding by the investigator to better understand the context of the complaint.

If a complainant wishes to remain completely anonymous, complainant may use the NDSCS concern form at www.ndscs.edu/concern and not disclose any identifying information.

The College's ability to investigate and resolve anonymous complaints will be limited if the information contained in the anonymous complaint cannot be verified by independent information.

e: Timeliness of Report

Complainants and other reporting individuals are encouraged to report any violation of this policy as soon as possible in order to maximize the College's ability to respond promptly and effectively. Complaints and reports may be made at any time without regard to how much time has passed since the incident(s) in question.

If the respondent is no longer a student or employee at the time of the complaint or report, the College may not be able to take disciplinary action against the respondent, but it will still seek provide support for the complainant and taking steps to end the prohibited behavior, prevent its recurrence, and address its effects.

f: Amnesty

In order to encourage reports of conduct that is prohibited under this policy, students who experience sexual misconduct while under the influence of alcohol or other drugs, will not be subject to the Student Conduct process for the alcohol or other drug offense.

6. Process

NDSCS is committed to providing a prompt and impartial investigation of all alleged violations of this policy. During the investigative process, both parties (complainant(s) and respondent(s)) have equivalent rights, including the opportunity to present information, to be accompanied by an adviser of their choice, and to appeal the finding. The College will concurrently provide the parties with written notification of the outcome of the process and any appeal.

a: Responsibility to Investigate

In order to protect the safety of the College community, the Title IX Coordinator may investigate allegations of violations of this policy even absent the filing of a formal complaint or report, or if a complaint or report has been withdrawn. The Title IX Coordinator may need to proceed with

an investigation even if a complainant(s) specifically requests that the matter not be pursued. In such a circumstance, the Title IX Coordinator will take into account the complainant's articulated concerns, the best interests of the College community, fairness to all individuals involved, and the College's obligations under Title IX.

b: Initial Assessment of Complaints

The inquiry/investigative process is initiated when the Title IX and/or a Deputy Title IX Coordinator receives a complaint or report of a violation of this policy. Interim measures, to provide for the safety and security of the College community, may be enacted. The Title IX Coordinator will conduct an initial review and may take any of the following actions:

- If the Title IX Coordinator determines that the complaint is outside the scope of this policy, the Title IX Coordinator may refer the complaint to another office/resources for review.
- If the Title IX Coordinator determines that the complaint or report would, if substantiated, constitute a violation of the NDSCS Sexual Misconduct Policy will assign an Inquiry Team.

c: Inquiry Team

The assigned Title IX Inquiry Team will conduct an inquiry to determine if the reported incident rises to the level of a potential Title IX violation. The Title IX Inquiry Team may take any of the following actions:

- If the Title IX Inquiry Team determines that the complaint is outside the scope of the NDSCS Sexual Misconduct Policy, the Sexual Misconduct Inquiry Team may recommend to the Title IX Coordinator that the complaint be referred to another office, service and/or department for review.
 - Sexual Misconduct Inquiry Team will provide a recommendation report to the Title IX Coordinator.
- If the Sexual Misconduct Inquiry Team determines that the complaint, if substantiated, would constitute a violation of the NDSCS Sexual Misconduct Policy, the Sexual Misconduct Inquiry Team will report findings to the Title IX Coordinator.
 - The Title IX Coordinator will make a determination if the complaint moves to the investigation process and assigns an Investigation team.
 - This investigation team, if at all possible, will be the same individuals that comprised the Sexual Misconduct Inquiry Team.

d: Timing of Investigations and any Related Disciplinary Proceedings

The Title IX Coordinator will seek to complete the investigation and any resulting disciplinary process within a reasonable timeframe. The College will seek to complete any appeal within 30 calendar days after receipt of the appeal.

The investigation may be extended to ensure the integrity and completeness of the investigation, comply with a request by external law enforcement, accommodate the availability of witnesses, or accommodate delays by the parties; or for other legitimate reasons, including the complexity of the investigation and the severity and extent of the alleged misconduct. The College's investigations will be independent of and separate from law enforcement investigations of

criminal activity.

The College will not wait for the conclusion of a criminal proceeding to conduct its own investigation and, if needed, will take immediate steps to provide interim measures for the complainant.

e: Cooperation with Investigation and Disciplinary Procedures

NDSCS expects all members of the College community to cooperate fully with the inquiry, investigation and disciplinary procedures. The College recognizes that an individual may be reluctant to participate in the process; nevertheless, any student or employee who refuses to cooperate in an inquiry or investigation will not prohibit the investigation from moving forward and the applicable follow-up/sanctions from being applied (as necessary).

It is understood that there may be circumstances in which a complainant wishes to limit their participation. The complainant retains this right and acknowledges that limiting their participation may impact the effectiveness of the investigation.

If any party chooses not to participate in an investigation for any reason, the College process will continue, findings will be reached with respect to the alleged conduct, and the College will issue any penalties, as appropriate. The College will not, however, draw any adverse inference from parties' silence.

f: Circumstances Relating to Misconduct Affecting Health or Safety

In circumstances seriously affecting the health or well-being of any person, or where physical safety is seriously threatened, or where the ability of the College to carry out its essential operations is seriously threatened or impaired, an authorized representative may summarily suspend, dismiss, or exclude any person from the College. In all such cases, actions taken will be reviewed promptly, by the appropriate College authority.

g: Interim Measures:

The Title IX Coordinator is responsible for ensuring the implementation of interim measures and coordinating the College's response with the appropriate offices. Interim measures will continue even if NDSCS postpones investigation to comply with law enforcement requests. Violation of the interim measures may result in appropriate disciplinary actions.

7. Investigation, Disciplinary, and Appeal Procedures

a: Investigation and Adjudication

The inquiry team will send notification to the complainant(s) and respondent(s) that a Title IX investigation has commenced. This initial notice of investigation will provide necessary information regarding the process, an outline of alleged prohibited conduct, and the parties' ability to have an advisor. Interim measures, to provide for the safety and security of the College community, may be enacted or removed.

When possible, a two-person Sexual Misconduct Investigative Team will conduct the sexual misconduct investigation.

- Gather facts and evidence related to the investigation.
- Investigators will interview witnesses and interested parties.
 - The Investigative Team will interview all parties separately if possible.
 - An adviser may participate in the interview process.

The Title IX Coordinator will seek to complete the investigation process within 60 calendar days from the start of the investigation. The investigation may be extended to ensure the completeness and integrity of the process. See NDSCS Sexual Misconduct Policy (Section 6c) for more information

Upon completion of the investigation, the Sexual Misconduct Investigative Team will provide a draft of the investigative report to Title IX Coordinator which will include facts, evidence, and a comprehensive overview of interviews. The Title IX Coordinator will ensure clarity and thoroughness of the investigative report.

Both parties will receive a draft of the Investigative Report from the NDSCS Title IX Coordinator or Deputy Coordinator.

- The complainant(s) and respondent(s) will be provided the opportunity to ask questions of other parties, through written communication that must be submitted within 5 working days to the investigative team.
- The investigate team will ensure the appropriateness/relevance of the questions, each party would have the opportunity to review and respond (in writing) to those questions.
- The investigative team will review the questions and responses.
- The responses and questions will be provided to all parties; all parties will be provided an opportunity for final response within 5 working days.

The Investigative Team will provide the Title IX Coordinator, complainants(s) and respondent(s) the Final Investigative Report, which could include any evidence, interviews, other artifacts, and responses/questions from all parties

The Title IX Coordinator will provide the Final Investigative Report and any supporting information to the Executive Director of Student and Residential Life and/or the Executive Director of Human Resources and/or trained designee for appropriate follow-up, adjudication,

and/or hearing(s). These processes are stepped out in the NDSCS Student Guide to Rights and Responsibilities: A code of conduct and NDUS Human Resource Policy Manual

b: NDSCS Contact with Parties During Investigation

Throughout the investigation process, both parties will receive regular updates regarding the case. The Final Investigative Report will be provided to complainant(s) and respondents(s) for review.

c: Hearing Procedure for Potential Student Suspension and Expulsion Cases

Refer to Student Guide to Rights and Responsibilities: A Student Code of Conduct Section VI

d: Sanctions

The case will be forwarded to the Executive Director of Human Resources and/or the Executive Director of Student and Residential Life for appropriate follow-up, adjudication, and/or hearing(s)

If a party is found responsible for violating College policy the Executive Director of Human Resources and/or the Executive Director of Student and Residential Life will assign appropriate sanctions and retain records in accordance with protocols for all other disciplinary cases. In all cases, the case file will also be archived by the Title IX Coordinator.

Possible sanctions can be found in the Student Guide to Rights and Responsibilities: A Student Code of Conduct and/or in the NDUS Human Resource Policy Manual.

e: Student Enrollment and Residence Status

The effective date of the sanction(s) is the date of the Report. However, the sanction(s) may be temporarily stayed, pending the appeal filing, deadline or resolution of any filed appeal. Pending an appeal, the respondent may be permitted to remain in College housing, attend classes, and make use of some or all College facilities, except for circumstances where interim measures prohibit this ability, or the ability of the College to carry out its essential functions. Certain restrictions may be imposed in order to provide an educational environment free from discrimination under Title IX.

Pending the outcome of an investigation and/or appeal, process an administrative hold may be placed on respondent(s) and/or complainant(s) college transcript.

f: Disciplinary Procedures Where One Party is a Member of the College Community and the Other Party is a Non-Member of the College Community

When a non-member of the College community is involved as a complainant(s) or a respondent(s), the College will use disciplinary procedures that are generally consistent with the disciplinary procedures as outlined in this policy.

Modifications may be made to allow for privacy requirements. In no case will a member of the College community (i.e., current student, faculty or staff member) be afforded lesser rights or lesser opportunities to participate in the disciplinary proceeding than the non-member of the College community.

U.S. Office for Civil Rights
Chicago Office (Local OCR office for North Dakota) U.S. Department of Education
John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604 Telephone: 312-730-1560
FAX:312-730-1576; TDD: 800-877-8339
Email: OCR.Chicago@ed.gov
Website: <http://www.ed.gov/ocr/>

Approved by:



Rod Flanigan, Ph.D.

9/27/22

Date

8. Documenting Complaints/Concerns

NDSCS will document all concerns and/or complaints received, regardless of outcome. A report will be compiled for each complaint rising to the level of an investigation. When applicable, the report will include the following information;

- Description of the incident
- Record of how and when the incident was brought to attention
- Documentation of investigation process, including interview notes
- Documentation of all information reviewed by adjudicator
- Documentation of all updates given to involved parties
- Documentation of all contact with law enforcement
- Documentation of interim measures and services provided
- Any other relevant information to the case.

*Documentation of sanctions and basis for the sanction will be recorded with the Title IX Coordinator and appropriate offices.

9. Prevention and Education

NDSCS considers both physical surroundings and educational programming in addressing prevention of sexual misconduct. The College continually reviews and modifies the physical surroundings to foster security and safety, including but not limited to such factors as lighting and locking procedures. NDSCS offers curricular and co-curricular educational experiences concerning bystander intervention, primary prevention efforts, personal safety, sexual assault and misconduct, domestic/dating/relationship violence, gender identification and sexual misconduct. For further information on pertinent NDSCS educational opportunities, contact Sandi Gilbertson, NDSCS Title IX Coordinator, at (701) 671-2904 via e-mail at sandi.gilbertson@ndscs.edu or the NDSCS Student Advocate, at (701) 671-2541 via e-mail NDSCS.StudentAdvocate@ndscs.edu.

Where to obtain additional information:

Any questions regarding Sexual Misconduct may be referred to:

Sandi Gilbertson
Executive Director for Human Resources
Title IX Coordinator
Haverty Hall, 136
North Dakota State College of Science
800 Sixth St. North
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