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Area	Equal Opportunity/Title IX
References	NDCC, NDUS HR Manual, SBHE Policy + 3 more

Discrimination and Harassment

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POLICY STATEMENT

The University of North Dakota (University/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 (including limited English proficiency), religion, sex, sex stereotypes, age, disability, sexual orientation, gender identity, genetic information, pregnancy or pregnancy-related condition, marital or parental status, veteran's status, political belief or affiliation, participation in lawful activity off the employer's premises during nonworking hours, or any other status protected by law or UND/North Dakota University System/ State Board of Higher Education policy.

UND prohibits discrimination, harassment, student-on-student discriminatory harassment, and student-on-student harassment, as defined by this policy. UND also prohibits retaliation by its employees and students against a person who exercises their rights or responsibilities under any provision of state or federal law, including Title VI, Title VII, Title IX, the Americans with Disabilities Act, and the North Dakota Human Rights Act, or this policy.

Employees or students who violate this policy may face disciplinary action up to and including separation from the University. Third parties who commit discrimination or harassment may have their relationships with the University terminated and/or their privileges of being on University premises withdrawn.

The University's policy for addressing sexual harassment as defined by Title IX is set forth in UND's Title IX Sexual Misconduct Policy (see Related Information).

The University's policy for addressing sexual harassment occurring outside the scope of Title IX is set forth in UND's Sexual Misconduct Policy (see Related Information).

REASON FOR POLICY

UND is dedicated to providing a safe and non-discriminatory learning, living and working environment for all members of the University community. The University adopts this policy with a commitment to eliminating discrimination and harassment, preventing its recurrence, and addressing its effects. This policy sets forth the University's response to incidents of discrimination and harassment in compliance with federal and state laws.

SCOPE OF POLICY

This policy applies to:

- President
- Vice Presidents
- Deans, Directors & Department Heads
- Area Managers & Supervisors
- Faculty
- Staff
- Students
- Others: Third Parties

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CONTACTS

Specific questions should be directed to the following:

Subject	Contact	Telephone/ Fax	Office or Department E-Mail / Web Address
Policy Clarification	Equal Opportunity & Title IX Office (EO/Title IX)	701.777.4171	UND.eo.titleix@UND.edu Equal Opportunity & Title IX Website
Policy Clarification Related to Students/ Reporting Student Concerns	Community Standards & Care Network	701.777.2664	UND.communitystandards@UND.edu Community Standards Website
Counseling Services for Students (confidential)	University Counseling Center	701.777.2127	University Counseling Center Website
Employee Assistance Program (confidential)	The Village	800.627.8220	Village EAP Website
Make a Report to Department of Education	Office for Civil Rights, U.S. Department of	312.730.1560	U.S. Department of Education Website

	Education		
Report Possible Crime to Campus Police	University of North Dakota Police	701.777.3491 Call 911 for emergency	UND.safety@UND.edu University Policy Website
Report Possible Policy Violations	Equal Opportunity & Title IX Office	701.777.4171	UND.eo.titleix@UND.edu Equal Opportunity & Title IX Website

DEFINITIONS

Adverse Action	Any act or omission that results in an adverse impact on the terms, conditions and privileges of employment, academic pursuits and/or any other university-sponsored activity. An adverse action violates the discrimination and harassment policy when it is motivated by discrimination based on actual or perceived protected class membership, or in retaliation for protected activity. Adverse actions are not limited to hiring, firing, promotion, demotion, selection for admission, or assigned grades. Other actions can adversely affect terms, conditions and benefits of employment, academic pursuits or other university-sponsored activity. Adverse actions can have multiple motivating factors. UND reserves the right to take action to address discrimination that is one of multiple motivating factors, even if it is determined that a policy violation did not occur.
Complainant	An individual who is alleged to be the victim of conduct which could, after investigation, constitute discrimination or harassment.
Confidential Employee	Any employee who is a licensed medical, clinical or mental-health professional (e.g., physicians, nurses, physicians' assistants, psychologists, psychiatrists, professional counselors and social workers, and those performing services under their supervision), when acting in that professional role in the provision of services; and (2) any employee providing administrative, operational and/or relational support for licensed employees in their performance of such services. A confidential employee will not disclose information about discrimination and/or harassment to the AVP EO/Title IX or others, in a way that identifies the involved individuals without their permission (subject to the exceptions set forth in the Confidentiality section of this policy). (UND has designated CVIC at UND Prevention Peers as confidential employees. Please contact the Equal Opportunity & Title IX Office for a current list of designated confidential employees.
Disability	A physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. Major life activities include, but are not limited to, caring for oneself, performing

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	manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. An impairment substantially limits one or more major life activities when it prevents the performance of a major life activity that the average person in the general population can perform; or causes a significant restriction as to the condition, manner, or duration under which an individual can perform a particular major life activity, as compared to the average person in the general population.
Discrimination	The unfair or unequal treatment of an individual or a group based upon the individual or group's actual or perceived membership in a protected class and results in an adverse action. An adverse action that is motivated in full or in part by discrimination violates this policy. UND may respond to conduct or speech that does not meet this definition by taking non-punitive action designed to promote a welcoming, inclusive environment.
Disciplinary Sanctions	Consequences imposed on a respondent following a determination that the respondent violated the University's prohibition on discrimination or harassment.
Education Program or Activity	Includes locations, events, or circumstances over which the University of North Dakota exercises substantial control over both the respondent and the context in which the discrimination or harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University of North Dakota.
Employee	Any person employed for wages or salary by the University, in either full-time or part-time capacity, in any location or job. Examples include officers, faculty, staff, medical residents, graduate assistants, and student employees. Employee includes temporary, probationary and regular employees.
Formal Complaint	A document filed by a complainant or signed by the AVP EO/Title IX alleging discrimination or harassment against a respondent and requesting that the University investigate the allegation of discrimination or harassment.
Gender Identity	One's concept of self as male, female, a blend of both or neither. A person's gender identity may be different from their sex as assigned at birth.
Harassment (other than	Unwelcome verbal, written, or physical conduct by an employee,

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student-on-student)	student, or third-party directed to an individual or a specified group because of the individual or group's actual or perceived membership in a protected class and creates a hostile environment, as defined by this policy. UND may respond to conduct or speech that does not meet this definition by taking non-punitive action designed to promote a welcoming, inclusive environment. Student-on-student discriminatory harassment and student-on-student harassment are defined elsewhere in this policy. UND's Title IX Sexual Misconduct Policy addresses sexual harassment as defined by Title IX (see Related Information). UND's Sexual Misconduct Policy addresses sexual harassment occurring outside the scope of Title IX (see Related Information).
Hostile Environment	Unwelcome conduct determined by a reasonable person to be objectively offensive and sufficiently severe or pervasive to alter the conditions of participation in a University education program or activity, including employment and academic pursuits, and create an abusive environment. A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including, but not limited to: • The degree to which the conduct affected one or more individuals' education or employment; • The type, frequency and duration of the conduct; • Whether the conduct was physically threatening; • The identity of and relationship between the respondent and the complainant; • The number of individuals involved; • Whether the conduct arose in the context of other discriminatory conduct; and • Whether the conduct unreasonably interfered with the complainant's educational or work performance and/or university programs or activities
Pregnancy or Related Condition	1. Current or past pregnancy, potential or intended pregnancy, labor, childbirth, termination of pregnancy, or lactation; 2. medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or

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	3. recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions. References to pregnant individuals should be interpreted to include individuals with a pregnancy-related condition.
Protected Activity	Protected activity consists of, but is not limited to: • Opposing in good faith and consistent with University policy an action reasonably believed to constitute a violation of this policy; or • Filing an internal or external complaint about such practice; or • Testifying, assisting, or participating in any manner in an investigation or other proceeding related to a complaint under this policy; or • Any other activity protected by federal or state civil rights laws.
Protected Class	A group of people with a common characteristic who are legally protected from discrimination on the basis of that characteristic. Protected classes under this policy include race, color, national origin (including limited English proficiency), religion, sex, sex stereotypes, age, physical or mental disability, sexual orientation, gender identity, genetic information, pregnancy or pregnancy-related condition, marital or parental status, veteran's status, relationship or association with an individual with a disability, relationship or association with a veteran, political belief or affiliation, participation in lawful activity off the employer's premises during nonworking hours, and any other status protected by federal or state law or North Dakota University System/State Board of Higher Education policy.
Religion	Religion is defined broadly and includes all aspects of religious observance and practice as well as spiritual beliefs; traditional, organized religions such as Christianity, Judaism, Islam, Hinduism, and Buddhism; and religious beliefs that are new, uncommon, not part of a formal church or sect, or only held by a small number of people. Religious beliefs include theistic beliefs as well as non-theistic moral or ethical beliefs that are sincerely held with the strength of traditional religious views and typically concern ultimate ideas about life, purpose, and death. Social, political, or economic philosophies, as well as mere personal preferences, are not religious beliefs.
Respondent	An individual who has been reported to have engaged in conduct that could constitute discrimination or harassment.
Retaliation	Intimidation, threats, coercion, or discrimination against any person by the University, a student, or an employee or other person

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	authorized by the University to provide aid, benefit, or service under the University's education program or activity, for the purpose of interfering with any right or privilege secured by law or this policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy, including in an informal resolution process, in grievance procedures, and if applicable, in any other actions taken by the University under this policy. Nothing in this definition precludes the University from requiring an employee or other person authorized by the University to provide aid, benefit, or service under the University's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this policy. Such conduct will be cause for disciplinary action, up to and including termination and/or suspension.
Sex	For purposes of this policy, the sex designated or recorded on an individual's birth certificate.
Sex Stereotypes	Fixed or generalized expectations regarding a person's aptitudes, behavior, self-presentation or other attributes based on sex.
Sexual Orientation	An emotional, romantic or sexual attraction to other people.
Student	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.
Student Employee	A student whose employment status is dependent on being a student.
Student-on-Student Discriminatory Harassment	Pursuant to N.D.C.C. §15-10.4-02 and SBHE Policy 503.1, speech or expression by a student directed to another student or specified group of students that is unwelcome, targets the victim on a basis protected under federal, state, or local law, and is so severe, pervasive, and objectively offensive that a student effectively is denied equal access to educational opportunities or benefits provided by the university. UND may respond to student-on-student speech or expression that

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	does not meet this definition by taking non-punitive action designed to promote a welcoming, inclusive environment. UND's Title IX Sexual Misconduct Policy addresses sexual harassment, as defined by Title IX (see Related Information). UND's Sexual Misconduct Policy addresses sexual harassment outside the scope of Title IX (see Related Information).
Student-on-Student Harassment	Pursuant to SBHE Policy 503.1, unwelcome verbal, written, or physical conduct by a student directed to another student or a specified group of students because of the student or group's actual or perceived membership in a protected class and creates a hostile environment, as defined by this policy. UND may respond to student-on-student speech or conduct that does not meet this definition by taking non-punitive action designed to promote a welcoming, inclusive environment. UND's Title IX Sexual Misconduct Policy addresses sexual harassment, as defined by Title IX (see Related Information). UND's Sexual Misconduct Policy addresses sexual harassment outside the scope of Title IX (see Related Information).
Supportive Measures	Individualized measures offered as appropriate, and reasonably available, without burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to: 1. Restore or preserve that party's access to UND's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or 2. Provide support during UND's grievance procedures or during the informal resolution process.
Third Party	An individual who is not a student or employee of the University but has contact with the University such as an affiliate, volunteer, vendor, participant in a university-sponsored event, or campus visitor.

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PRINCIPLES

UND prohibits discrimination and harassment. UND utilizes procedures that provide prompt, fair, and impartial investigation and resolution of allegations of discrimination and harassment. Individuals who are found to have violated University policy will be subject to appropriate campus adjudication processes and/or disciplinary action.

UND reserves the right to address inappropriate behavior through education or other non-punitive means before the behavior becomes a policy violation.

Jurisdictional Statement

This policy applies to reports of discrimination and harassment:

- Within or impacting UND's education program or activity; and/or
- Involving a UND student, regardless of the location or context in which it occurred.

This policy addresses sex discrimination, as prohibited by Title IX, in addition to other prohibited discrimination and harassment.

The University's policy for addressing sexual harassment, including sexual assault, domestic violence, dating violence, and stalking, that occurs within or in connection with a University program or activity and against a person in the United States is set forth in UND's Title IX Sexual Misconduct Policy.

The University's policy for addressing sexual harassment that occurs outside the scope of Title IX is set forth in UND's Sexual Misconduct Policy (see Related Information).

Responding to Reports of Discrimination or Harassment

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When notified of conduct that reasonably may constitute discrimination or harassment, the Assistant Vice President for Equal Opportunity & Title IX (AVP EO/Title IX), who also serves as UND's Title IX coordinator, will take the following actions to promptly and effectively end discrimination and harassment in UND's education program or activity, prevent its recurrence, and remedy its effects:

- Treat the Complainant and Respondent equitably;
- Offer and coordinate supportive measures, as appropriate, for the Complainant. If grievance procedures have been initiated, also offer and coordinate supportive measures, as appropriate, for the Respondent.
- (A) Notify the Complainant, or the person reporting the conduct if the Complainant is unknown, of the grievance procedures and informal resolution process, if available and appropriate and (B) If a complaint is made, notify the Respondent of the grievance procedures and informal resolution process, if available and appropriate.
- In response to a complaint, initiate grievance procedures or an informal resolution process, if available and appropriate.
- In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, determine whether to initiate a complaint that complies with the grievance procedures.
- If initiating a complaint, the AVP EO/Title IX will notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing supportive measures.
- Regardless of whether a complaint is initiated, take other appropriate prompt and effective

steps, in addition to steps necessary to effectuate the remedies provided to an individual Complainant, to ensure that discrimination or harassment does not continue or recur within the education program or activity.

The AVP EO/Title IX is not required to comply with the above after being notified of conduct that the AVP EO/Title IX reasonably determines could not constitute discrimination or harassment under this Policy.

The AVP EO/Title IX is also charged with:

- Monitoring the University's education program or activity for barriers to reporting information about conduct that reasonably may constitute discrimination or harassment under federal law; and
- Taking steps reasonably calculated to address such barriers.

The AVP EO/Title IX may designate an appropriately trained individual to carry out any of the tasks or functions described in this document. When this procedure refers to the AVP EO/Title IX, it is presumed to mean AVP EO/Title IX or designee.

Inquiries regarding UND's equal opportunity and nondiscrimination policies, including Title IX, Title VI, Title VII, ADA and Section 504 of the Rehabilitation Act may be addressed to:

Assistant Vice President, Equal Opportunity & Title IX
Title IX/ADA Coordinator
University of North Dakota
Twamley Hall
264 Centennial Drive Stop 7097
Grand Forks, ND 58202-7097
Phone: 701.777.4171
Email: UND.eo.titleix@UND.edu
Equal Opportunity & Title IX Website

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A complaint or concern regarding discrimination or harassment may also be addressed to:

Assistant Secretary for Civil Rights
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Phone: 800.421.3481
Email: OCR@ed.gov

In accordance with Title IX, UND notifies applicants for admission and employment, students, and employees of the name or title, office address, email address and telephone number of the Title IX coordinator. This information is prominently displayed on UND's website and in each handbook or catalog made available to the foregoing individuals.

Presumption of Not Responsible

The respondent is presumed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance procedure. The burden of proof and the burden of gathering evidence sufficient to make a determination regarding responsibility rests on UND.

Bias and Conflict of Interest

The AVP EO/Title IX, deputy Title IX coordinators, investigators, decision-makers, and all individuals who facilitate informal resolution processes, will be free from bias and conflict of interest. Examples of bias and conflict of interest include but are not limited to, personal animosity, illegal prejudice, and personal or financial stake in the outcome. Bias can relate to sex, race, ethnicity, sexual orientation, gender identity, religion, disability, national origin or other characteristics.

If a party believes any of the above individuals has a bias or conflict of interest that prevents them from serving impartially in the grievance procedure, the party may challenge that person's participation in the grievance procedure as provided in the Procedures for Discrimination and Harassment Response.

Confidentiality of Title IX Records

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Pursuant to Title IX, UND will not disclose personally identifiable information in records related to discrimination based on sex, sex characteristics, sex stereotypes, gender identity, or sexual orientation, except in the following circumstances:

1. The University has obtained prior written consent from a person with the legal right to consent to disclosure;
2. When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosure on behalf of the person whose personally identifiable information is at issue;
3. To carry out the purpose of this policy, including action taken to address conduct that reasonably may constitute sex-based discrimination in UND's education program or activity;
4. As required by federal law; or
5. To the extent not otherwise in conflict with Title IX, when required by State or local law or when permitted under FERPA.

In addition, pursuant to N.D.C.C. §44-04-18.28, any record at the University that is related to a complaint or investigation under Title IX and contains personally identifiable information about a party to the complaint is an exempt record under North Dakota's open records and meetings law. Except as otherwise specifically provided by law (i.e. FERPA), an exempt record is a record that is neither required by law to be open to the public, nor is confidential, but may be open in the discretion of the public entity. For purposes of that exemption, "personally identifiable information' means information that directly identifies an individual, and information that, alone or in combination with other information, is linked or linkable to an individual and would allow a reasonable person who lacks knowledge of the relevant circumstances to identify the individual."

Privacy

The EO/Title IX office maintains appropriate privacy of reports, complaints, and the associated records submitted in relation to this Policy. However, except for records related to discrimination based on sex, sex stereotypes, pregnancy, gender identity, and sexual orientation (see Confidentiality of Title IX Records, above) occurring within the U.S., the records are subject to open records laws, unless protected by the Family Educational Rights and Privacy Act (FERPA), or state or federal laws protecting personally identifiable information.

The EO/Title IX office maintains the privacy of reports and complaints to the extent possible consistent with its obligation to enforce the Discrimination and Harassment Policy. Information will be shared with a limited circle of University employees who need to know in order to assist in the assessment, investigation, and resolution of the report and related issues. During an investigation, information will be disclosed to participants as necessary to facilitate the investigation.

Confidentiality exists in the context of laws that protect certain relationships, including with medical and clinical care providers (and those who provide administrative services related to the provision of medical and clinical care), mental health providers, counselors, and ordained clergy, all of whom may engage in confidential communications under North Dakota law. The University has designated individuals who have the ability to have privileged communications as "confidential employees." When information is shared by an individual with a confidential employee or a community professional with the same legal protections, the confidential employee (and/or such community professional) cannot reveal the information to any third party except when an applicable law, professional standard or a court order requires or permits disclosure of such information.

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Non-Disclosure of Evidence and Investigative Report

Complainants, respondents, and their advisors are prohibited from copying, sharing, or disseminating the investigative report and evidence except (1) to consult with family members, confidential resources or advisors, or to otherwise prepare for or participate in the grievance procedure; or (2) as required by law.

The non-disclosure obligation does not restrict or prevent a complainant, respondent or advisor from obtaining and presenting evidence, including by speaking to witnesses, subject to this Policy's prohibitions on retaliation. Further, the non-disclosure obligation does not prevent a complainant or respondent from speaking truthfully with others about their own experiences.

University personnel involved in the investigation, including the AVP EO/Title IX, investigators, and hearing officers, are similarly bound by strict confidentiality obligations. They are not permitted to disclose any evidence, information, or investigative reports to parties or individuals outside of the University's grievance procedures, unless required by law.

Failure to comply with the non-disclosure obligation may result in sanctions or disciplinary action as determined by the University. Sanctions may include warnings, educational measures, or more severe measures, as deemed appropriate by the University.

Confidential Resources

Consistent with the definition of confidential employees and licensed community professionals, there are a number of resources within the University and Grand Forks communities where students and employees can obtain confidential support. These resources include:

University Counseling Center (for students)
McCannel Hall Room 200
701.777.2127
University Counseling Center Website

Student Health Services (for students)
McCannel Hall Room 100
701.777.4500
Student Health Website

CVIC at UND (for all)
Twamley Hall, Room 102
Campus Confidential Advisor: 701.777.6550
Main Office: 701.746.0405
24/7 Crisis Line: 701.746.8900 or 866.746.8900
CVIC at UND Website or CVIC Website

Employee Assistance Program (for employees)
800.627.8220
Village EAP Website

Conflict Management Services (for all)
701.261.6805
Conflict Management Services Website

The above resources may assist in providing referrals to local confidential resources for UND students and employees who reside outside of the Grand Forks area.

Supportive Measures

Supportive measures may be offered to the complainant and the respondent regardless of whether a complainant files a complaint under this policy. If a complaint is filed, supportive measures will continue to be available to the complainant and respondent after the conclusion of the grievance procedure, as appropriate, whether there was a finding of responsibility or non-responsibility. The AVP EO/Title IX is responsible for coordinating the effective implementation of supportive measures.

Supportive measures may vary depending on what the University deems to be reasonably available. These measures may include but are not limited to: counseling; extensions of deadlines or other course-related adjustments; campus escort services; increased security and monitoring of certain areas of campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a

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comparable alternative; and training and education programs related to discrimination or harassment.

Supportive measures must not burden either party and must be designed to protect the safety of the parties or the University's educational environment, or to provide support during the grievance procedures or during the informal resolution process. The University will not impose such measures for punitive or disciplinary reasons.

The University may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures or at the conclusion of the informal resolution process, or the University may continue them beyond that point.

The University will provide the complainant and respondent with a timely opportunity to seek modification or reversal of the decision to provide, deny, modify, or terminate supportive measures applicable to them. An impartial employee, other than the person who made the challenged decision, will be designated to make this decision. The University will provide parties with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

The University will not disclose information about any supportive measures to anyone other than the person to whom they apply, including information one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore preserve a party's access to the education program or activity.

Individuals are encouraged to report to the AVP EO/Title IX any concerns about the failure of another to abide by any restrictions imposed through supportive measure(s) such as mutual no-contact orders. In the event of an immediate health or safety concern, individuals should contact 911 immediately. Disciplinary action may be taken for failing to abide by certain supportive measure(s).

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Employee Reporting Obligations

Specific employee reporting obligations are listed below. Sharing all disclosures, reports or other known information about alleged discrimination or harassment with the EO/Title IX office allows the University to meet its state and federal obligations and to appropriately address any harassment or discrimination. Sharing such information with the EO/Title IX office also provides the University with the best opportunity to offer appropriate supportive measures to assist a complainant, assess any health or safety risk posed by the alleged discrimination or harassment, take immediate and appropriate steps to investigate what occurred, and take prompt and effective action to end any misconduct, remedy its effects, and prevent its recurrence.

Employees must not discourage individuals from reporting these situations and should inform the individual of their required reporting obligations.

Failure to comply with reporting obligations may subject the employee to appropriate discipline, up to and including termination of employment.

Confidential Employees

A confidential employee will not disclose information about discrimination or harassment in a way that identifies the involved individuals without the individuals' permission (subject to the exceptions set forth in the Confidentiality of Title IX Records and Privacy sections of this policy).

Confidential employees must explain to any person who informs the confidential employee of conduct that reasonably may constitute discrimination or harassment:

- The employee's status as confidential under this Policy, including when the employee is not required to notify the AVP EO/Title IX about conduct that reasonably may constitute discrimination or harassment;
- How to contact the AVP EO/Title IX and how to make complaint; and
- That the AVP EO/Title IX may be able to offer and coordinate supportive measures, as well as initiate informal resolution process or investigation.

Discrimination or Harassment Involving Students

Regular/Benefitted and Temporary Employees

All employees, except confidential employees while acting within their confidential role and student employees, are required to report as soon as possible to the EO/Title IX office all information they know about suspected or potential harassment or discrimination against students.

Student Employees

Students employed as Resident Assistants, Community Assistants, Resident Managers, Athletics Camp Coaches, Undergraduate Instructors, and Graduate Assistants are required to report as soon as possible to the EO/Title IX office discrimination or harassment against students.

All other student employees are encouraged, but not required, to report suspected or potential discrimination or harassment against students to the EO/Title IX office.

Discrimination or Harassment in the Workplace

All employees are strongly encouraged, but not required, to contact the EO/Title IX office when they have been subject to conduct that reasonably may constitute discrimination or harassment in the workplace. The AVP EO/Title IX can provide information about supportive measures and resolution options.

Supervisors and Managers

All supervisors and/or managers, including department chairs, are required to report as soon as possible to the EO/Title IX office all information they know about suspected or potential discrimination or harassment occurring in the workplace.

Non-Supervisory Employees

When employees who are not supervisors or managers become aware of suspected or potential discrimination or harassment occurring in the workplace, they are encouraged to provide the

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Complainant with the AVP EO/Title IX's contact information and information about how to make a complaint. Non-supervisory employees are encouraged, but not required, to report information about suspected or potential discrimination or harassment in the workplace to the EO/Title IX office.

Student Employees

Student employees are encouraged but not required to report information about suspected or potential discrimination or harassment in the workplace to the EO/Title IX office. However, they may still have reporting obligations as detailed in the preceding section (see Discrimination and Harassment Involving Students).

Clery Act Reporting

Individuals designated as campus security authorities under the Clery Act have separate and additional reporting requirements under the act.

Pursuant to the Clery Act, the University includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. The Clery Act also requires the University to issue timely warnings to the University community about certain crimes that have been reported and may continue to pose a serious or continuing threat to students and employees. Consistent with the Clery Act, the University withholds the names and other personally identifying information as appropriate when issuing timely warnings to the University community.

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Training

All Employees

All University employees are required to complete annual training regarding:

- UND's obligation to address discrimination and harassment in its education program or activity;
- The scope of conduct that constitutes discrimination and harassment; and
- Employee reporting obligations.

Employees with Roles in Sex Discrimination Procedures

Investigators, decisionmakers, all others responsible for implementing UND's grievance procedures for sex discrimination, and those who have authority to modify or terminate supportive measures must receive annual training on:

- UND's obligation to address sex discrimination in its education program or activity;
- The scope of conduct that constitutes sex discrimination, including the definition of sexual harassment;
- Employee reporting obligations;
- UND's policy and grievance procedures for responding to sex discrimination in its education

program or activity;

- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
- The meaning and application of the term "relevant' in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance.
  Facilitators of informal resolution processes must receive annual training on:
- UND's obligation to address sex discrimination in its education program or activity;
- The scope of conduct that constitutes sex discrimination;
- Employee reporting obligations;
- The rules and practices associated with UND's informal resolution process; and
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Title IX Coordinator and Designees must receive annual training on the above topics and:

- Their specific responsibilities under Title IX;
- Recordkeeping requirements and UND's recordkeeping system; and
- Any other training necessary to coordinate UND's compliance with Title IX.

All training materials used to train the foregoing individuals on the above will be made available to the public by posting on the Equal Opportunity & Title IX website.

Individuals who have not completed training as required by this policy shall not investigate, adjudicate, or otherwise be involved in the grievance procedures associated with this policy.

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Non-Retaliation for Filing or Participating in a Discrimination or Harassment Complaint

UND prohibits retaliation, including peer retaliation, in its education program or activity. When UND has information about conduct that reasonably may constitute retaliation under this Policy, UND will respond as outlined in this Policy.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this Policy. Charging an individual with a policy violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy does not constitute retaliation prohibited by this Policy. However, a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith.

Prohibition against False Statements

UND prohibits knowingly making false statements or knowingly submitting false information during the Discrimination and Harassment grievance procedure. Doing so will subject the party making the knowingly false statement to disciplinary action.

Record Keeping

The University shall retain records as follows:

- For each complaint of discrimination or harassment, records documenting the informal resolution process or the grievance procedures and the resulting outcome shall be retained for seven years following the conclusion of the grievance procedure or informal resolution process.
- For each report of conduct that may reasonably constitute discrimination or harassment, records documenting the actions UND took to meet its obligations to respond shall be retained for seven years after the actions are completed.
- For any disciplinary sanctions implemented, records shall be retained until the sanction is completed and for seven years following completion of the sanction.
- Records of all materials used to provide training shall be retained for seven years following administration of the training.

PROCEDURES

Reporting Options

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The University encourages anyone who experiences discrimination or harassment to immediately report the incident to the University through the reporting options below. It is the University's policy to handle complaints at the earliest possible level to ensure a quick and effective response.

- Using the on-line EO/Title IX report (see Related Information and Forms)
- By contacting any of the following offices, as appropriate, in person, by phone, or in writing:
    - EO/Title IX Office – any report of harassment or discrimination
    - Community Standards & Care Network – any report against a student

A complainant who wishes to pursue criminal action in addition to, or instead of, making a report under these procedures should contact law enforcement directly:

- 911 (for emergencies)
- University Police: 701.777.3491 (for non-emergencies) or anonymous crime report (see Forms)
- Grand Forks Police Department: 701.787.8000 (for non-emergencies)

In addition, conduct prohibited by this policy may also be prohibited by UND's Sexual Misconduct Policy and/or Title IX Sexual Misconduct Policy. A complaint may proceed under both policies (see Consolidation of Complaints).

If the respondent is no longer an employee or student or otherwise affiliated with the University at the time of the complaint or report, the University may not be able to take disciplinary action against the respondent. In such circumstances, the University may seek to meet its obligations by providing support for the complainant and taking steps to end the prohibited behavior, prevent its recurrence, and address

its effects.

Filing a Formal Complaint

To request that UND investigate a report of discrimination or harassment, the complainant must file a formal complaint with the AVP EO/Title IX. The formal complaint must be a written or digital document that identifies the complainant and respondent, provides a method to contact the complainant, and contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the complaint. This complaint may be filed with the EO/Title IX office in person, by mail, or by electronic means using any of the contact information below:

- In person: Equal Opportunity & Title IX Office, Twamley Hall, Grand Forks, ND
- By mail: 264 Centennial Drive Stop 7097, Grand Forks, ND 58202
- By email: UND.EO.TitleIX@UND.edu
- On-line: using the digital complaint form supplied by the EO/Title IX office

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of UND.

If Complainant Declines to File Formal Complaint

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When the complainant declines to file a formal complaint, UND will seek to honor the preferences of the complainant whenever possible. However, if the AVP EO/Title IX determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents UND from ensuring equal access to its education program or activity, the AVP EO/Title IX may initiate a formal complaint.

When the AVP EO/Title IX initiates a formal complaint, the AVP EO/Title IX is not a complainant or otherwise a party to the complaint. If a complainant requests that their name or other personally identifiable information not be shared with a respondent, that no investigation be pursued, or that no disciplinary action be taken, the AVP EO/Title IX will discuss those concerns with the complainant and let the complainant know that the University's ability to investigate and address concerns may be limited.

Even when no formal complaint is filed, the University may take other appropriate steps to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the complainant and the University community. Those steps may include offering appropriate supportive measures to the complainant, and/or providing targeted training and prevention programs.

Standard of Evidence to Determine Responsibility

The University applies the preponderance of the evidence standard when determining whether this policy has been violated. Preponderance of the evidence means that it is more likely than not that a policy violation occurred.

Responding to Reports and Complaints

The specific procedures for reporting, investigating, and resolving complaints of discrimination or harassment are based upon the nature of the respondent's relationship to the University (student, employee or third party). Each set of procedures referenced below is guided by the same principles of fairness and respect for complainants and respondents. The procedures referenced below provide for prompt and equitable response to reports of discrimination and harassment. The procedures provide for thorough and impartial investigations that afford all parties notice and an opportunity to present witnesses and evidence and to view the information that will be used in determining whether a policy violation has occurred.

Where the Respondent is a Student

The procedures for responding to reports of discrimination and harassment against students are provided in the *Code of Student Life* (see Related Information).

Where the Respondent is an Employee

The procedures for responding to reports of discrimination and harassment against employees are provided in Procedures for Discrimination and Harassment Response (see Related Information).

Where the Respondent is Both a Student and an Employee

If there is a question as to the predominant role of the respondent, the AVP EO/Title IX or designee, in consultation with others as appropriate, will determine which of the procedures applies based on the facts and circumstances, such as which role predominates in the context of the discrimination or harassment report. Where a respondent is both a student and an employee, the respondent may be subject to any of the sanctions applicable to students and employees.

Where the Respondent is a Third Party

The University's ability to take appropriate corrective action against a third party will be determined by the nature of the relationship of the third party to the University. The AVP EO/Title IX or designee, in consultation with others as appropriate, will determine the appropriate manner of resolution consistent with the University's commitment to a prompt and equitable process consistent with state and federal law and University and other applicable policies.

Disciplinary Sanctions and Remedies

Any disciplinary sanctions or remedies become effective when the determination regarding responsibility is final. Details regarding sanctions and remedies are found in the Procedures for Discrimination and Harassment Response (see Related Information).

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Non-Punitive Response

The University may respond to conduct that does not meet the definition of a policy violation by taking non-punitive action designed to promote a welcoming, inclusive, and safe environment.

Time Frame for Completion of Grievance Procedures

UND will carry out the grievance procedures in a reasonable and timely manner. The length of time necessary to complete a fair and thorough process will vary depending upon the complexity of the facts, including the number of witnesses and volume of information provided by the parties; a request by law enforcement for temporary delay to gather evidence for a criminal investigation; to accommodate the availability of witnesses; to account for University breaks or vacations; or for other legitimate reasons.

UND aims to issue a determination regarding responsibility within 120 calendar days of receiving a formal complaint. If the parties choose an informal resolution process, UND aims to complete the process within 30 days of the date the parties agreed to use informal resolution. However, temporary delays or extensions of the time frames will be offered for good cause, such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for accommodations for language or disability. The investigator(s) or AVP EO/Title IX will notify the parties in writing of any delays and provide an explanation for the delay.

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Consolidation of Complaints

Involving Multiple Parties

Complaints as to allegations of discrimination or harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of discrimination or harassment arise out of the same facts or circumstances, may be consolidated as determined to be appropriate by the AVP EO/Title IX.

Involving Multiple Policies

Grievances or complaints filed through other University, SBHE or NDUS policies may have as a component to the grievance a complaint under the Discrimination and Harassment Policy. If the AVP/EO Title IX determines that the policies and procedures applicable to all grievances/complaints can be followed, the grievances or complaints may be administered as one process. If the AVP/EO Title IX determines that the policies and procedures applicable to the grievances or complaints conflict with each other and the conflict cannot be resolved, separate processes may be required. The AVP EO/Title IX and the office(s) under which any concurrent grievances or complaints have been filed will collaborate, as appropriate, in the investigation and resolution of the complaints.

If a complaint made under the Discrimination and Harassment Policy also contains an allegation of a violation of another policy, the Discrimination and Harassment grievance procedures will be followed to make a determination of responsibility under the Discrimination and Harassment Policy. Decisions regarding responsibility for alleged violations of other policies will be based upon that policy and the

associated procedures.

If a determination of responsibility under the Discrimination and Harassment Policy has been issued, the University has discretion whether to proceed with a determination of responsibility under the other involved policy.

Some conduct may be prohibited by more than one policy. While a complaint may allege that conduct violates multiple policies, a respondent will not receive multiple disciplinary actions for the same conduct. For example, a respondent may be charged with violations of the Discrimination and Harassment Policy and the Sexual Misconduct Policy for one incident. If found responsible, the respondent will not receive duplicate disciplinary actions for conduct that violates both policies.

RESPONSIBILITIES

Assistant Vice President, Equal Opportunity & Title IX	• Coordinate the University's compliance with state and federal anti-discrimination laws, including the University's grievance procedures for resolving complaints of discrimination and harassment • Provide oversight of all discrimination and harassment complaints, identifying and addressing any patterns or systemic problems that arise during the review of such complaints. • Assist students and employees in understanding their rights, responsibilities and options for reporting and support • Receive reports of discrimination and harassment against employees • Investigate or oversee investigation of complaints of discrimination and harassment against employees
Community Standards & Care Network	• Assist students in understanding their rights, responsibilities and options for reporting and support • Receive reports of discrimination and harassment involving students • Resolve complaints of discrimination and harassment against students • Provide support to students • Work with other departments to implement interim remedial or protective measures • Implement student conduct process

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Managers and Supervisors	• Share information about incidents of discrimination or harassment with the EO/Title IX Office
Students, Employees and Other Campus Community Members	• Practice bystander intervention • Use words and actions to show our commitment to maintaining a safe campus
University Police Department	• Review and modify, if necessary, physical surroundings to enhance security and safety on campus • Provide input and personnel for education programs • Perform criminal investigations

RELATED INFORMATION

- 20 USC §§ 1681 – 1688 - Title IX of the Education Amendments of 1972 (Title IX)
- 29 USC §§ 621 et seq. - Age Discrimination in Employment Act of 1967 (ADEA)
- 34 CFR Part 106 - Nondiscrimination on the Basis of Sex in Education
- 42 USC §§ 1201 et seq. - Americans with Disabilities Act of 1990 (ADA)
- 42 USC § 2000e – Title VII of the Civil Rights Act of 1964 (Title VII)
- 42 USC §§ 2000ff et seq. - Genetic Nondiscrimination Act of 2008 (GINA)
- 29 USC § 206(d) - Equal Pay Act of 1963
- NDCC §14-02.4 et seq. - North Dakota Human Rights Act
- NDCC § 44-04-18.28 – Title IX records exempt
- NDCC §15-10.4-02 – Campus Free Speech Policy
- North Dakota University System (NDUS) Human Resource Policy Manual
- Pregnancy Discrimination Act of 1978
- Pregnant Workers Fairness Act
- Section 504, Rehabilitation Act of 1973
- State Board of Higher Education (SBHE) Employee Policies
- State Board of Higher Education (SBHE) Employee Procedures
- State Board of Higher Education (SBHE) Policy 503.1 - Student Free Speech and Expression
- State Board of Higher Education (SBHE) Policy 603.1 – Harassment and Discrimination
- SafeUND
- UND Code of Student Life
- UND Faculty Handbook
- UND Procedure - Discrimination and Harassment Response

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- UND Policy – Sexual Misconduct
- UND Policy – Title IX Sexual Misconduct
- UND Staff Handbook
- Vietnam Era Veterans' Readjustment Assistance Act of 1974

FORMS

- Anonymous Crime Report Form
- Report Bias, Discrimination or Harassment

APPENDICES

There are no appendices associated with this document.

Approval Signatures

Step Description	Approver	Date
President	Andrew Armacost: President	07/2024
Policy Office	Jennifer Rogers: Director of University Policy	07/2024
	Donna Smith: Assistant VP for Equal Opportunity/Title IX	07/2024

References

NDCC, NDUS HR Manual, SBHE Policy, UND Policy, UND Procedure, USC