

**DSU HARASSMENT COMPLAINT PROCEDURE**

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DSU Procedure No. 603.1.001

Reference Documents: SBHE Policy Manual, Section 603.1; DSU Policy No. 603.1.001

**Purpose:** To provide a complaint procedure for employees and students who believe they have been victims of harassment as defined in the DSU Harassment Policy.

**Definitions:**

1. **HARASSMENT:** Harassment is a form of offensive treatment or behavior which, to a reasonable person, creates an intimidating, hostile, or abusive work or learning environment.
  2. **SEXUAL HARASSMENT:** Sexual harassment means unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature, the purpose or effect of such conduct unreasonably interferes with an individual's performance or creates an intimidating, hostile or offensive environment.
  3. **RETALIATION:** Retaliation occurs when an adverse action is taken against an individual for engaging in protected activity. Protected activity consists of:
    - a. Opposing conduct reasonably believed to constitute discrimination, including harassment, that violates an employment discrimination statute or that University or North Dakota University System policy prohibits; or
    - b. filing a complaint about such practice; or
    - c. seeking an accommodation under DSU's Harassment policy and procedure; or
    - d. testifying, assisting, or participating in any manner in an investigation or other proceeding related to a discrimination complaint.
- NOTE:** Any relationship of a romantic or sexual nature between faculty and students or other University employees that is consensual in nature but has potential as, or existing conflict of interest from either a supervisory or academic standpoint is subject to Dickinson State University Policy number 603.4.001.
4. **PERPONDERANCE OF EVIDENCE:** A requirement that more than 50% of the evidence indicates that a claim is more likely to be true than not. This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence.

38 **Types of Complaints:** There are four types of complaints addressed. These are: Anonymous,  
39 Third-Party, Informal and Formal complaints.

40 **NOTE:** University employees are required to formally report sexual harassment complaints  
41 involving employees, students, and visitors.

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43 1. **ANONYMOUS COMPLAINTS:** Anonymous complaints are accepted by DSU as a way  
44 to inform DSU administration that harassment may have occurred. The University's  
45 ability to investigate and resolve anonymous complaints will be limited if the information  
46 contained in the anonymous complaint cannot be verified by independent facts.

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48 2. **THIRD-PARTY COMPLAINTS:** Third-party complaints are accepted by DSU as a way  
49 to inform DSU administration that harassment may have occurred. The University's  
50 ability to investigate and resolve third-party complaints will be limited if the information  
51 contained in the third-party complaint cannot be verified by independent facts.

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53 3. **INFORMAL COMPLAINTS:** An informal complaint is initiated when a complainant  
54 discusses alleged harassment with the immediate supervisor of the offending employee,  
55 the supervising faculty member for the course, or an appropriate DSU employee who can  
56 mediate the issue.

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58 4. **FORMAL COMPLAINTS:** Formal complaints are written and are accepted by DSU and  
59 are an official way to inform DSU administration that harassment may have occurred.

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61 **Complaint Procedures:** Procedures specific to each type of complaint are described below.

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63 **NOTE:** Sexual Harassment complaints may be filed at any time, regardless of the time that has  
64 elapsed from the date of the alleged incident, and, must be investigated following the formal  
65 complaint procedure and timeline.

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67 1. **ANONYMOUS COMPLAINTS:** An anonymous complaint must be reported within 20  
68 business days of the alleged incident. An anonymous complaint may be filed by  
69 completing the Dickinson State University Harassment Complaint Form. The completed  
70 form can be submitted in two ways:

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72 a. You (or a trusted friend) can hand-deliver the form to one of the offices  
73 designated to receive reports (i.e., the Vice President for Student Affairs, the  
74 Provost/Vice President of Academic Affairs, or the Director of Human  
75 Resources). All you have to say is, "This is for NAME (the office to receive the  
report)" and depart; or,

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b. Mail the document to:

Dickinson State University  
Attn: NAME OF THE OFFICE  
291 Campus Drive  
Dickinson, ND 58601

2. **THIRD-PARTY COMPLAINTS:** A third-party complaint must be reported within 20 business days of the alleged incident. A third-party complaint may be filed by completing the Dickinson State University Harassment Complaint Form. The completed form can be submitted in two ways:

a. You (or a trusted friend) can hand-deliver the form to one of the offices designated to receive reports (i.e., the Vice President for Student Affairs/, the Provost/Vice President of Academic Affairs, or the Director of Human Resources). All you have to say is, “This is for NAME (the office to receive the report)” and depart; or

b. Mail the document to:

Dickinson State University  
Attn: NAME OF THE OFFICE  
291 Campus Drive  
Dickinson, ND 58601

3. **INFORMAL COMPLAINTS:** An informal complaint must be reported within 20 business days of the alleged incident. Informal resolution can be achieved by the complainant discussing the alleged harassment with the immediate supervisor of the accused (i.e., respondent), the faculty member teaching the course, or an appropriate DSU employee who will attempt to resolve the issue. Informal Complaints may or may not involve written documentation.

4. **FORMAL COMPLAINTS:** If an informal resolution is attempted but not successful, or if the complainant chooses not to pursue an informal resolution, a formal written complaint may be filed using the Dickinson State University Harassment Complaint Form. A complainant must file the written formal complaint within 10 business days of the conclusion of a failed attempt to address the matter by informal resolution, or within

114 20 business days of the alleged incident if the formal complaint process is the process  
115 first initiated. The formal written complaint may be filed with any of the following  
116 designated University offices: Vice President for Student Affairs, Provost/Vice President  
117 of Academic Affairs, or Director of Human Resources.  
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## 120 **Roles and Responsibilities of the DSU Personnel Involved Harassment Complaint**

### 121 **Procedures:**

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- 123 1. **SUPERVISING OFFICER:** The Supervising Officer for non-sexual harassment formal  
124 complaints will be the Affirmative Action Officer. The Supervising Officer for sexual  
125 harassment complaints will be the Title IX Coordinator. To ensure a fair and neutral  
126 process for all parties the Supervising Officer is responsible for:
    - 127 a. Monitoring the Complaint Resolution Procedures time-line during the harassment  
128 claims process;
    - 129 b. Assigning a school official as an “Investigator”;
    - 130 c. Providing the complainant and respondent a copy of the formal investigative  
131 findings (i.e., Investigator Report) and resultant action(s) (i.e., designated  
132 university officer resultant action(s) response);
    - 133 d. Securely storing official harassment claim case files in accordance with NDUS  
134 retention policy guidelines.
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  - 136 2. **INVESTIGATOR:** The Investigator conducts a formal inquiry to discover relevant  
137 information related to the harassment allegations. The Investigator will provide the  
138 appropriate designated university officer (i.e., Vice President for Student Affairs,  
139 Provost/Vice President of Academic Affairs, or Director of Human Resources) with  
140 her/his findings and recommendation(s) for resulting action(s). The Investigator will use  
141 the “preponderance of evidence” standard to determine the probable truth and accuracy of  
142 the information gathered during the investigative process, and to guide her/his findings  
143 and recommendations for resultant action(s).  
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  - 145 3. **DESIGNATED UNIVERSITY OFFICER:** The designated university officer is the head  
146 of the office under which the harassment complaint was received (i.e., Vice President for  
147 Student Affairs, Provost/Vice President of Academic Affairs, or Director of Human  
148 Resources). The Designated University Officer is responsible for:
    - 149 a. Examining and assessing the findings and recommendation(s) for resulting  
150 action(s) forwarded by the Investigator (i.e., the Report);
    - 151 b. Determining the resulting action(s) in response to the Report; and

152 c. Providing the Supervising Officer with a copy of the Report and her/his  
153 determination of resulting actions.

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155 **Complaint Resolution Procedures:**

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157 1. **INFORMAL RESOLUTION:** An informal resolution must be completed within 10  
158 business days of the receipt of the initial complaint. When the resolution is successful, the  
159 individual who served to mediate the informal resolution should inform the Supervising  
160 Officer, in writing of the following: names of the complainant and respondent involved in  
161 the informal resolution, the date the informal resolution occurred, and that the informal  
162 resolution was successful. If the informal resolution is not successful, then the  
163 complainant may use the formal resolution process, as outlined in this Policy; and must  
164 do so within 10 days of the conclusion of the failed attempt to address the matter by  
165 informal resolution.

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167 2. **FORMAL RESOLUTION:**

168 a. In order to fully investigate a complaint, it is best if the complainant writes, in  
169 his or her own words, an account of the alleged occurrences. This helps the  
170 complainant clearly state events and gives the Investigator the best understanding  
171 of what was alleged to have occurred. If the complainant is not able to write an  
172 account, the complainant may review and sign the written account transcribed by  
173 the Investigator. The complainant should review the transcription to ensure  
174 accuracy.

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176 b. The DSU Harassment Complaint Form must be as complete as possible, and  
177 should include the complainant's signature. If an anonymous or third-party  
178 sexual harassment complaint is filed by a complainant, or on behalf of a  
179 complainant, the Supervising Officer should contact the complainant and notify  
180 the complainant of the procedural options and support services available to her/  
181 him.

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183 c. The signed formal complaint must be delivered to the Supervising Officer within  
184 five (5) business days of receipt by a designated University Office. In the  
185 absence of the Supervising Officer, a designee may be appointed by the  
186 Supervising Officer. The Supervising Officer or designee will exercise oversight  
187 of the investigative procedures according to the following guidelines:

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- 189 1.Fact-finding investigations and results must be concluded within 20  
190 business days of the complaint filing. In extenuating circumstances, the  
191 investigation may continue beyond 20 business days. Reasons for  
192 exceptions shall be noted for the case file. The complainant and the  
193 respondent shall be informed as to the progress or status of the  
194 investigation by the Supervising Officer.  
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- 196 2.Within 10 business days of the conclusion of the investigation, a written  
197 report of the investigative findings and resulting action(s)  
198 recommendations (the Report) will be forwarded from the Investigator to  
199 the Designated University Officer.  
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- 201 3.Within 10 business days of receipt of the Report, the Designated  
202 University Officer will issue a determination response regarding resulting  
203 actions (e.g., disciplinary action(s)).  
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- 205 4.Both the Report and resulting actions response will be submitted to the  
206 Supervising Officer by the Designated University Officer. The  
207 Supervising Officer will forward a copy of each to the complainant and  
208 respondent. Copies may also be appropriately filed with other relevant  
209 offices (e.g., security).  
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- 211 5.If either party disputes the Report findings or resulting action(s), an appeal  
212 can be made to the Supervising Officer. This appeal must be made in  
213 writing to the Supervising Officer within 10 business days of receiving the  
214 Report and resulting actions response. The appeal must detail specific  
215 concerns that the Supervising Officer should consider and should explain  
216 why the appellant believes the matter was wrongly decided.  
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- 218 6.If the complainant or respondent feels that any part of the complaint  
219 procedure was not followed, a written grievance can be submitted through  
220 the appropriate grievance procedure within 10 business days of receiving  
221 the Report. Grievance procedures may be found in the following  
222 documents:
- 223 a. Staff: NDUS Human Resource Policy Manual: Section 28 -  
224 Grievance Procedures
  - 225 b. Faculty: Dickinson State University Faculty Handbook: Article II,  
226 Section J - Grievance Procedure

227 c. Students: Dickinson State University Student Handbook: Article 2,  
228 Section 2.7 - Redress of Grievances

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230 7. Appeals or grievances must be resolved in accordance with the Grievance  
231 procedures. The resolution of an appeal or grievance procedure will  
232 terminate university action regarding an official complaint of harassment.

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234 3. FALSE COMPLAINTS: Knowingly inhibiting an investigation of harassment and / or  
235 submitting a false report of harassment is prohibited. Anyone knowingly inhibiting an  
236 investigation of harassment and / or submitting a false report is subject to disciplinary  
237 action up to termination or expulsion. Applicable disciplinary actions may be found in the  
238 following documents:

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241 a. Staff: NDUS Human Resource Policy Manual: Section 25 – Job Discipline /  
242 Dismissal;

243 b. Faculty: Dickinson State University Faculty Handbook: Appendix II – E.3,  
244 Section 605.3 Nonrenewal, Termination or Dismissal of Faculty;

245 c. Students: Dickinson State University Student Handbook: Article 3, Misconduct,  
246 Section 3.1 to 3.31.

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248 4. DISCRIMINATION OR HARASSMENT COMPLAINTS MADE AS PART OF  
249 ANOTHER GRIEVANCE OR COMPLAINT PROCESS: Grievances filed through other  
250 processes outlined in the Dickinson State University Student Handbook, the Dickinson  
251 State University Faculty Handbook, the North Dakota State Board of Higher Education  
252 Policies and Procedures, the North Dakota University System Human Resources Policy  
253 Manual, or related due process procedures may have as a component to the grievance an  
254 allegation of discrimination or harassment. The discrimination or harassment complaint  
255 shall be handled within that existing process and not as a distinct or separate process. The  
256 Affirmative Action Officer / Title IX Coordinator will be available for consultation  
257 regarding the investigation of the harassment portion of the complaint. The findings of  
258 the grievance shall include any determinations of fact related to the discrimination or  
259 harassment charges. Any appeal of the findings shall be according to the process  
260 appropriate to the status of the grievant.

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262 **NOTE:** A complaint of discrimination or harassment that is part of an on-going  
263 grievance shall be forwarded to the Affirmative Action Officer / Title IX Coordinator as  
264 part of the University's record of discrimination complaints.

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**266 Disciplinary Actions**

267           Disciplinary recommendations and actions will be considered consistent with NDUS and  
268 University policy and procedures and the investigative findings. For employees, disciplinary  
269 action can range from sanction up to and including dismissal. For students, disciplinary actions  
270 may be imposed as described in the Student Handbook.

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