

## ***General Policy – Harassment***

### **Policy:**

Bismarck State College does not tolerate harassment in any form. All employees, students, customers, contractors, and visitors to our campus should enjoy a positive, respectful and productive work environment free from behavior, actions or language constituting workplace harassment.

Engaging in workplace harassment is unacceptable conduct, and will not be tolerated. Any employee found to have engaged in workplace harassment will be subject to disciplinary action up to and including termination. Managers and supervisors who know or should have known of workplace harassment and fail to report such behavior, or fail to take immediate, appropriate action, will be subject to disciplinary action up to and including termination.

This policy recognizes BSC's commitment to the understanding that the maintenance of ethical standards and the concerns for academic freedom prohibit the exploitation of employees and students. BSC is required by law and State Board of Higher Education (SBHE) Policy to take all steps necessary to prevent workplace harassment. These steps include informing individuals of their rights and responsibilities, developing educational programs to sensitize the campus community to the issue, and developing sanctions against workplace harassment. Employees may be held personally liable for acts of discrimination or workplace harassment.

### **Definitions:**

1. Workplace harassment is a form of offensive treatment or behavior, which to a reasonable person creates an intimidating, hostile or abusive work environment. It may be sexual, racial, based on gender, national origin, age, disability, religion or a person's sexual orientation. It may also encompass other forms of hostile, intimidating, threatening, humiliating or violent behavior, which are not necessarily illegal discrimination, but are nonetheless prohibited by this policy.
2. It is misconduct for an employee to harass another employee, customers, contractors, visitors, or students.
3. Sexual harassment is defined by unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment 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 a basis for employment decisions (granting leave, promotion, favorable performance evaluation, etc.) or academic decisions (grades, etc.) 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.

4. Based on the report and information obtained, the incident may be investigated under the [Sexual Misconduct and Title IX Compliance Policy and Procedures](#).
5. Harassment can also be verbal or physical behavior, which is derogatory, abusive, disparaging, "bullying," threatening or disrespectful, even if unrelated to a legally protected status.
6. Harassment in electronic form is also prohibited under NDUS Procedure 1901.2-Computer and Network Usage.
7. To aid employees in identifying prohibited behavior, the following specific examples of workplace harassment are provided (these examples are not meant to be all inclusive):
  - unwelcome touching of a personal nature, which can encompass leaning over, cornering or pinching; sexual innuendos, teasing and other sexual talk such as jokes, personal inquiries, persistent unwanted courting and sexist put-downs;
  - slurs and jokes about a class of persons, such as persons who are disabled, homosexual or a racial minority;
  - display of explicit or offensive calendars, posters, pictures, drawings or cartoons which reflect disparagingly upon a class of persons or a particular person;
  - derogatory remarks about a person's national origin, race, language, accent;
  - disparaging or disrespectful comments even if unrelated to a person's race, color, gender, national origin, religion, age, disability or sexual orientation; or
  - loud, angry outbursts or obscenities directed toward another employee, student, customer, contractor, or visitor in the workplace.

### **Supervisor and Employee Responsibility:**

1. When an administrator, manager, supervisor or employee knows that harassment or retaliation is occurring, or receives information that harassment or retaliation might be occurring, he or she must take immediate action and contact the Chief Human Resources Officer or designee for consultation and discussion of appropriate actions to be taken. HR actions could include, but are not limited to, interviewing the complainant, developing a specific account of the actions, omissions or occurrences that are alleged to be discriminatory, and corrective or disciplinary action.
2. Administrators, supervisors, and employees who fail to immediately report any complaint or type of workplace harassment are subject to disciplinary procedures. Not taking immediate action is viewed by the courts as condoning the behavior. EEOC states an employer is responsible for acts of harassment in the work place where the employer knows, or should have known, of the conduct, unless it can be shown the organization took immediate and appropriate corrective action.
3. An employee who engages in workplace harassment is subject to standard disciplinary procedures.

### **Retaliation:**

No member of the campus shall intimidate, threaten, coerce, or discriminate against any individual because he or she filed a report, testified, assisted, or participated in any manner in an investigation. Any report of retaliation shall be promptly investigated.

BSC is prepared to take appropriate steps to protect individuals who fear that they may have been subjected to retaliation.

### **Reporting Procedure:**

1. A person who feels harassed or retaliated against shall be entitled to a review of the complaint.
2. A review may be initiated by a verbal or written report. The request should be submitted to the Chief Human Resources Officer or designee.
3. The verbal or written report must include a detailed description of the incident to include the following:
  - Specific act or circumstances that are the basis of the report, including the date and time of the incident.
  - Location of the incident.
  - Persons involved including witnesses
  - The remedy or action requested.
4. Timely reporting of harassing behavior is essential to the investigation that will follow, though there is no deadline for reporting such behavior.
5. The Chief Human Resources Officer or designee will contact the person(s) who allegedly harassed as indicated in the report, and inform them of the basis of the report and the opportunity to respond in writing.
6. Typically, investigation/resolution of the report will occur within 60 calendar days from the time the case is assigned to investigators. If it is anticipated that the investigation/resolution process will take longer than 60 calendar days, parties will be notified in writing indicating the reason(s).
7. The Chief Human Resources Officer or designee, after conducting a thorough investigation, including possible interviews with all parties involved, will:
  - a. Determine the facts relevant to the report;
  - b. Discuss the application of equal opportunity laws, regulations and policies;
  - c. Attempt to resolve the report through further discussion and negotiation.
8. If it is determined that harassment or retaliation has occurred, appropriate disciplinary action up to and including termination will be taken. The severity of the discipline will be determined by the severity and frequency of the offense, or other conditions surrounding the incident.
9. When the investigation/review is completed, the reporter, the responding party and other parties that will need to act on the recommendation will be informed of the action taken. If the problem is not resolved, to the satisfaction of the employee/student through the complaint process, the employee/student may proceed with a formal grievance.
  - For staff, refer to NDUS HR Policy 28. Grievance Procedures
  - For faculty, refer to [BSC Faculty Policy – Faculty Grievances](#)
10. The Human Resource office will serve as the office of record for the original report of

the investigation.

11. Information and advice with respect to this policy and procedure is available from the Chief Human Resources Officer and/or designee.

### **False Reports:**

Knowingly submitting a false report of sexual misconduct is prohibited. Anyone submitting a false report is subject to disciplinary action.

### **Confidentiality:**

To the extent possible, BSC will maintain the confidentiality of anyone who reports an alleged violation of this policy.

### **Notice of Nondiscrimination:**

Bismarck State College is an equal opportunity institution that does not discriminate on the basis of race, color, sex, gender, gender identity, national origin, age, religion, sexual orientation, genetic information, marital status, disability, veteran's status or any other status protected by law in its admissions, student aid, employment practices, education programs or other related activities. Concerns regarding compliance with Title VI, Title VII, Title IX, Section 504 of the Rehabilitation Act, Americans with Disabilities Act, and the Age Discrimination and Employment Act may be referred to Angie Friez, Chief Human Resources Officer, Bismarck State College, BSC Meadowlark Building, 1700 Schafer Street, Bismarck, ND 58501 (701) 224-5427, [angie.friez@bismarckstate.edu](mailto:angie.friez@bismarckstate.edu) or to the Office for Civil Rights/Chicago, U.S. Department of Education, Citigroup Center, 500 W Madison Street, Suite 1475, Chicago, IL 60661. Telephone: (312) 730-1560, Fax: (312) 730-1576, TDD (800) 877-8339, email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov), website: <http://www.ed.gov/ocr/>.

### **References:**

ND SBHE Policy 603.1

[Title VII of the Civil Rights Act of 1964](#)

[Title IX of the Education Amendments of 1972](#)

### **History of This Policy:**

First policy draft July 1, 1985.

Revisions - December 24, 1987; March 23, 1990; June 1, 1990; November 21, 1991; June 16, 1993; October 21, 1993; May 2, 1994; August 7, 1997; June 18, 1998; May 12, 2000; June 6, 2000; March 26, 2002; January 7, 2003; September 8, 2003; September 16, 2003, January 12, 2004, October 17, 2005; May 27, 2008; February 18, 2010; April 7, 2011; August 9, 2012; June 5, 2015; The Hostile Work Environment policy was removed and combined in the Harassment policy. Reviewed by the Operations Council on November 14, 2018 and approved by the Executive Council on November 14, 2018; February 5, 2020.