



603.1 – Harassment, Discrimination and Retaliation Policy Procedure

Purpose:

The purpose of this policy procedure is to operationalize BSC Policy 603.1 Harassment and Discrimination.

Definitions:

Complainant - An individual who is alleged to be the victim of conduct which could, after investigation, constitute harassment and/or discrimination.

Respondent - An individual who has been reported to be the perpetrator of conduct that could constitute harassment and/or discrimination.

Procedure:

Anyone who experiences harassment, discrimination, or retaliation is encouraged to immediately let the offender know the behavior is unwelcome. The parties can attempt to resolve the situation without the filing of a complaint.

Formal Resolution:

Bismarck State College (BSC) encourages anyone who experiences discrimination or harassment to immediately report the incident to the College by contacting the following offices, as appropriate, in person, by phone or in writing:

- Human Resources Office – any report of harassment or discrimination involving employment
 - Bismarck State College, Meadowlark Building, 1700 Schafer Street, Bismarck, ND 58501, (701) 224-5531, bsc.humanresources@bismarckstate.edu
- Student Affairs – any report of harassment or discrimination involving education programs or student related activities
 - Bismarck State College, Jack Science Center, Office 307, 1420 Schafer Street, Bismarck, ND 58501, (701) 224-5638, bsc.studentaffairs@bismarckstate.edu
- Campus Police Department – all reports of criminal activity
 - Bismarck State College, Student Union, Lower Level, 1425 Schafer Street, Bismarck, ND 58501, (701) 224-2700, bsc.safety@bismarckstate.edu



If the harassment or discrimination includes an allegation of criminal activity, a complainant may choose to make a report to the College to pursue resolution under these procedures and may also choose to make a report to law enforcement. A complainant may pursue either or both of these options at the same time. In addition, conduct prohibited by this policy may also be prohibited by BSC's Sexual Harassment and Title IX Compliance Policy. A complainant may choose to make a complaint under both policies.

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

1. A report may be initiated by verbal or written report and 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.

Timely reporting of harassing behavior is essential to the investigation that will follow, though there is no deadline for reporting such behavior.

To the extent possible, BSC will maintain the confidentiality of the complaint and investigation. However, confidentiality cannot be guaranteed under these procedures as BSC may have an obligation to take specific actions once aware of alleged violations.

2. An initial assessment will be completed by the Chief Human Resources Officer for employment related complaints or the Vice President for Student Affairs for student related complaints to evaluate the complaint and decide to either: (1) pursue further action; or (2) dismiss the complaint. A complaint may be dismissed if: (1) it fails to allege any facts that suggest discrimination, harassment, or retaliation; or (2) an appropriate resolution or remedy has already been achieved. If a complaint alleges conduct that occurred off of BSC campus, BSC will determine whether the alleged off-campus conduct: (1) occurred within the context of an educational program or activity; and/or (2) has created or reasonably may create a hostile educational or work environment.

Unless there are extenuating circumstances, the initial assessment will be completed within 5 business days of receipt of the complaint and the decision will be provided



in writing to the Complainant. If the investigator requires further information from the Complainant before deciding, the decision will be made within 5 business days of receipt of the additional information requested. In the case of a dismissal, the investigator may provide information or guidance regarding other avenues for support or resolution of the complaint, if appropriate and available.

If the complaint is dismissed, the Complainant may submit a request for reconsideration of the complaint within 5 business days of receipt of the initial assessment determination. The Complainant may submit additional documentation or information that supplements the original complaint to the investigator. This may include, but is not limited to, additional evidence or names of witnesses. Complaints resubmitted with no additional information will not be reviewed for reconsideration.

3. If it is determined that further action is warranted, a thorough and impartial investigation will be conducted to 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. BSC applies the "preponderance of the evidence" standard when determining whether a policy has been violated. "Preponderance of the evidence" means that it is more likely than not that a policy violation occurred.
4. Typically, investigation/resolution of the complaint 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).
5. The investigator, after conducting a thorough investigation will prepare a report documenting the facts relevant to the complaint. The report will not include any conclusions as to policy violations.
6. The Chief Human Resources Officer for employment related complaints or the Vice President for Student Affairs for student related complaints will review the investigation report to make a determination if a policy violation occurred. If additional information is needed, the decision maker may contact the parties.
7. When the investigation is completed, the complainant and respondent will be informed of the determination simultaneously.
8. If it is determined that harassment, discrimination or retaliation has occurred, appropriate disciplinary action will be taken by the appropriate administrator. The severity of the discipline will be determined by the severity and frequency of the



offense, or other conditions surrounding the incident.

9. Either party may appeal the decision within 5 business days of the determination in writing to the decision maker. The grounds upon which a party can request an appeal are:
 - i. BSC's failure to follow its own process and procedures that affected the outcome of the grievance process;
 - ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could have affected the outcome of the matter; or
 - iii. The Title IX Coordinator or Deputy Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or for or against the individual complainant or respondent, that affected the outcome of the grievance process.
 - iv. The severity of the sanction was not consistent with the severity of the offense.

The appeal will be reviewed by a Review Committee of 3 properly trained committee members that do not have a conflict of interest with the Parties. If the appeal is brought under (ii), the party who did not provide the new evidence will have the opportunity to respond to the evidence in writing. The Review Committee will evaluate the investigative report in an impartial manner in light of the information found in the appeal and will alter or reaffirm the determination. Unless there are extenuating circumstances, the appeal process will be completed within 10 business days of submission of the appeal and the results will be provided in writing to the Parties.

The procedures described above do not eliminate the rights of a party to participate subsequently in pre-disciplinary action review and/or an appeal as afforded elsewhere under BSC, NDUS or SBHE policy.

Filing with an External Agency

An individual (or group) also has the right to file a discrimination complaint with one or more of the following external agencies. Please note that these agencies have their own deadlines for filing a discrimination complaint. Please contact the agencies directly for more information about applicable deadlines.

North Dakota Department of Labor and Human Rights

Phone: 1-800-582-8032 TTY: 1-800-366-6888

humanrights@nd.gov

www.nd.gov/labor



U.S. Department of Education Office for Civil Rights

Phone: 1-800-421-3481 TDD: 1-800-877-8339

OCR@ed.gov

<https://www2.ed.gov/about/offices/list/ocr/index.html>

U.S. Equal Employment Opportunity Commission

Phone: 1-800-669-4000 TTY: 1-800-669-6820

info@eeoc.gov

www.eeoc.gov

References:

[BSC Student Code of Conduct](#)

History of This Policy Procedure:

First policy procedure: June 26th, 2023.

Reviewed by Campus Council on May 10th, 2023, and reviewed by the Executive Council on May 18th, 2023, and approved by the President on June 26th, 2023.