



NOTRE DAME
COLLEGE

Employee Handbook

1.1 Welcome to Notre Dame College!

We are proud to have you as a member of the Notre Dame College community. We have written this handbook to answer some of the questions you may have concerning the College and its policies. Please read it thoroughly and retain it for future reference. It is the College's expectation and intention that the policies described in this handbook will from time to time be modified, rescinded or replaced. Should you have questions, please direct them to the Human Resources Department or your manager.

This handbook is not a contract, express or implied, and does not guarantee employment for any specific duration. Further, the policies stated in this handbook are subject to change, with or without prior notice, at the sole discretion of Notre Dame College. Please understand that no supervisor, manager or representative of Notre Dame College other than the President or the Vice President of Finance & Administration can enter into any agreement with you for employment for any specified period or to make any promises or commitments about your employment. Any such agreement entered into by the President or Vice President of Finance & Administration shall not be enforceable unless it is in writing. College employees are employed at-will and may be terminated, according to State law, with or without cause at any time or may resign for any reason at any time.

1.2 Mission

Notre Dame College, a Catholic institution in the tradition of the Sisters of Notre Dame, educates a diverse population in the liberal arts for personal, professional and global responsibility.

1.3 Philosophy

Insofar as Notre Dame College is a private, Catholic institution with its unique philosophy of education, it is expected that all administration and professional staff members will honor this philosophy before agreeing to enter into employment with the College.

Although non-Catholic personnel are not expected to make their own those tenets peculiar to Catholicism, neither may they, regardless of their own religious or moral persuasion, use their position to weaken either directly or indirectly the philosophy and educational objectives of the College.

1.4 Values List

The Values List of the Notre Dame College Community is a code of ethics and values for each member of our community. The primary goal of every person – student, faculty and staff – is the education of students.

To achieve this goal, we commit ourselves to these principles:

- Each student, colleague and visitor is of equal worth;
- A learning community values truth in all its forms;
- The College community honors the dignity of each person;
- A community is enhanced by the power that comes from uniqueness;
- The interdependence of all positions in a small college makes teamwork essential;
- Quality in the basics is the goal in every area;
- Imagination and versatility enrich every venture; and
- A sense of joy characterizes the Notre Dame College culture.

2.1 Equal Employment Opportunity Statement

The policy of the College is to maintain a workplace free of unlawful discriminatory practices. In accordance with Federal and state law, Notre Dame College does not discriminate in any term or condition of employment including: hiring, training, compensation, benefits, promotion, transfer, demotion, layoff, discipline, or discharge because of an individual's race, color, creed, age, gender, sexual orientation, religion, national origin, veteran status, physical or

mental disability, genetic information or any other basis of prohibited discrimination except when permitted by law to allow selection of Roman Catholics for certain designated positions.

Discrimination in any form, including slurs or jokes based on a protected classification, is to be promptly reported to the Director of Human Resources. All personnel have a responsibility to promote an environment free from discrimination and harassment. Any person who feels that he/she has witnessed or experienced discriminatory treatment or harassment, not in accordance with the College's policies and procedures, should promptly submit a complaint in accordance with the procedures set forth in this handbook. The measure of harassment is whether the conduct was unwelcome and offensive to the recipient; the alleged harasser's intentions are less significant. All personnel are prohibited from taking any kind of retaliatory action against an employee because of a good faith complaint about conduct prohibited by this policy. The Director of Human Resources or a designee will promptly investigate all complaints. Any employee who is found, in the judgment of the College, to be in violation of this policy shall be subject to disciplinary action, up to and including discharge.

2.2 Respectful Workplace

Notre Dame College believes in a respectful workplace. A respectful work place is one which promotes acceptance, is committed to diversity and requires respect for dignity and the interests of others. While there are laws and regulations that provide protection against discrimination, the College will go a step farther in creating a respectful workplace. **All employees are entitled to work in an environment which stresses acceptance, values diversity, and is free from any form of harassment or bullying.**

Sexual and other forms of illegal harassment and/or bullying is unacceptable. Any employee who harasses or bullies another may be subject to disciplinary action, up to and including termination. The College has a separate policy and procedure governing sexual harassment. Any employee who has a concern or complaint related specifically to sexual harassment should refer to the Title IX Policy.

2.3 Title IX Policy (Procedures for Title IX Discrimination and Sexual Harassment)

I. Title IX Generally

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex, including sex-based harassment and violence, in any federally funded education. Notre Dame College ("NDC" or "the College") is an academic institution that, in accordance and full compliance with federal, state, and local laws, does not discriminate on the basis of sex. NDC does not knowingly support or patronize any organization that engages in unlawful discrimination on the basis of sex.

All NDC proceedings under this policy are conducted in compliance with the requirements of Title IX, the Clery Act as amended by the Violence Against Women Act, the Family Educational Rights and Privacy Act (FERPA), and state and federal law, as may be applicable. No information shall be released from such proceedings except as required or permitted by law and College policy.

II. Title IX Non-Discrimination Policy and Procedures

NDC is committed to fostering a climate free from discrimination on the basis of sex. This policy is strictly enforced by NDC, and alleged violations receive prompt and equitable attention and appropriate corrective action. NDC takes steps to eliminate sex discrimination, to prevent the recurrence of sex discrimination, and to remedy the effects of sex discrimination, as appropriate.

Discrimination occurs when a behavior or policy has the same purpose or effect of restricting or denying an individual's or group's access to opportunities, programs, or resources, on the basis of sex, in a manner that interferes with an individual's working, academic, residential, or social environment or athletic participation or performance. NDC will not, on the basis of sex:

- Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;
- Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;
- Deny any person any such aid, benefit, or service;
- Subject any person to separate or different rules of behavior, sanctions, or other treatment;
- Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;
- Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or services to students or employees;
- Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

Discrimination on the basis of sex in employment is permissible in situations where sex is a bona fide occupational qualification reasonably necessary to the normal operation of NDC. Note that the federal regulations regarding Title IX include certain exceptions, such as single-sex housing, athletic participation, and chorus participation, that do not constitute discrimination on the basis of sex.

Individuals who believe they may have witnessed or been subjected to discrimination on the basis of sex are encouraged to make a report with the Title IX Coordinator. Any person may report sex discrimination, including sexual harassment, whether or not the person reporting is the person who has been subject to the conduct that constitutes sex discrimination or sexual harassment. This could be done in person, by mail, by telephone, or by electronic mail using the contact information listed below. Such a report can be made at any time (including during non-business hours) by using the telephone number, email address, or by sending mail to the office address listed below.

Judy West, Title IX Coordinator/Director of Human Resources

Location:

Notre Dame College
4545 College Road
South Euclid, OH 44121-4293

Phone Number: 216-373-6396

Email: jwest@ndc.edu

Chris Gill, Deputy Title IX Coordinator/Dean of Students

Location:

Notre Dame College
4545 College Road
South Euclid, OH 44121-4293

Phone Number: 216-373-5181

Email: dcgill@ndc.edu

Inquiries and complaints regarding the application of Title IX may also be made to the U.S. Department of Education at:

Office for Civil Rights, Cleveland Office
U.S. Department of Education
1350 Euclid Avenue, Suite 325
Cleveland, OH 44115
216-522-4970, 216- 522-2573 (fax), OCR.Cleveland@ed.gov

A. Grievance Procedure for Resolution of Sex Discrimination Complaints

Any student, faculty member, or employee who feels they have been the victim of discrimination on the basis of sex may report the matter to the Title IX Coordinator identified in this Policy. The Title IX Coordinator, or their designee, will conduct a prompt and thorough investigation of the reported discrimination. This investigation will be documented, and a determination will be made as to whether the reported discrimination occurred, using the preponderance of the evidence standard. When the investigation has been completed and a determination has been made, the parties will receive written notice of the determination.

In addition to addressing complaints against a particular party, the Title IX Coordinator also addresses concerns raised that College policies or practices may discriminate on the basis of sex, gender, gender identity, gender expression, or sexual orientation. The Title IX Coordinator conducts an assessment of such concerns and, using procedures the Title IX Coordinator determines to be appropriate given the circumstances, works with the College to ensure that its policies and practices are compliant.

III. Title IX Sexual Harassment Policy and Procedures

NDC is committed to fostering a climate that is free from harassment on the basis of sex. This policy is strictly enforced by NDC, and alleged violations receive prompt attention and appropriate corrective action. NDC takes steps to eliminate Title IX Sexual Harassment, as that term is defined below, and to remedy the effects of discrimination, as appropriate. All forms of prohibited Title IX Sexual Harassment are explained in greater detail, below.

The term “harassment” may mean different things, depending on the context and conduct at issue. For this reason, different types of harassment are subject to different policies and procedures. This Policy applies to “Title IX Sexual Harassment” in an education program or activity of NDC against a person in the United States. “Education program or activity” includes locations, events, or circumstances over which NDC exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

Complaints regarding Title IX Sexual Harassment under this Policy should be brought to the Title IX Coordinator. The Title IX Coordinator has also been designated to handle inquiries regarding this Policy:

Judy West, Title IX Coordinator/Director of Human Resources

Location:
Notre Dame College
4545 College Road
South Euclid, OH 44121-4293

Phone Number: 216-373-6396
Email: jwest@ndc.edu

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Inquiries and complaints regarding the application of Title IX may also be made to the U.S. Department of Education at:

Office for Civil Rights, Cleveland Office
U.S. Department of Education
1350 Euclid Avenue, Suite 325
Cleveland, OH 44115
216-522-4970, 216- 522-2573 (fax), OCR.Cleveland@ed.gov

A. Who May Use These Reporting and Grievance Procedures

Any member of the NDC community who has experienced sexual or physical assault is encouraged to immediately seek medical assistance, contact law enforcement to make a report, and make a report to NDC.

The Grievance Procedures outlined in this Policy provide for the prompt and equitable resolution of Title IX Sexual Harassment complaints by all members of the NDC community, including students, employees, consultants, vendors, independent contractors, applicants for admission or employment, guests, visitors, and third parties, who are participating in or attempting to participate in the education program or activity of NDC.

B. Jurisdiction

NDC has jurisdiction to address conduct that constitutes Title IX Sexual Harassment under this Policy, and occurs within NDC's educational programs or activities within the United States. For the purposes of this Policy, NDC's "educational programs or activities" includes all of the following: (1) the operations of the College, (2) locations, events, or circumstances over which NDC exercises substantial control over both the respondent party and the context in which the Prohibited Conduct occurred, and (3) buildings that are owned or controlled by student organizations officially recognized by NDC.

NDC maintains the right to respond to Title IX Sexual Harassment as defined by this Policy that falls outside the jurisdiction described in the preceding paragraph. Depending on the conduct at issue, the Student Handbook or Employee Handbook may apply.

C. Prohibited Conduct Covered by These Grievance Procedures – "Title IX Sexual Harassment"

There are six types of Prohibited Conduct that qualify as "Title IX Sexual Harassment," each of which is defined more specifically below: (1) *quid pro quo* sexual harassment, (2) unwelcome conduct sexual harassment, (3) sexual assault, (4) dating violence, (5) domestic violence, and (6) stalking on the basis of sex. The definitions used here are mandated by federal regulations.

For reported behavior to qualify as Title IX Sexual Harassment under this Policy, in addition to meeting the elements of the specific type of sexual harassment below, it must meet all of the following threshold requirements, as determined by the Title IX Coordinator and as mandated by federal regulations:

- The conduct must have occurred against a person in the United States.
- The conduct must have occurred within the College’s education program or activity. For purposes of this provision, this means that the conduct must have occurred either (a) in a location, event, or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs or (b) in relation to a building owned by a student organization that is officially recognized by the College.
- The complainant must be participating in or attempting to participate in the education program or activity of the College at the time the formal complaint is filed.

1. **Types of Title IX Sexual Harassment:**

a. **Quid Pro Quo Sexual Harassment**

“Quid pro quo sexual harassment” is conduct on the basis of sex where a College employee conditions the provision of an aid, benefit, or service of the College on an individual’s participation in unwelcome sexual conduct.

b. **Unwelcome Conduct Sexual Harassment**

“Unwelcome conduct sexual harassment” is conduct on the basis of sex that is unwelcome and determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity.

c. **Sexual Assault**

“Sexual assault” is conduct on the basis of sex that is defined as a forcible or non-forcible sex offense, or attempted forcible or non-forcible sex offense, as classified under the Uniform Crime Reporting system of the FBI. This includes six separate categories, each of which is considered a form of sexual assault:

- (i) *Rape* is defined as the carnal knowledge of a person, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. Carnal knowledge is defined as the slightest penetration of the sexual organ of one person by the sexual organ of the other.
- (ii) *Sodomy* is defined as oral or anal sexual intercourse with another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- (iii) *Sexual Assault With An Object* is defined as the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the complainant.
- (iv) *Fondling* is defined as the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the complainant, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- (v) *Incest* is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. In Ohio, Revised Code Section 3101.01(A) provides that individuals nearer of kin than second cousins may not marry.

- (vi) *Statutory rape* is defined as sexual intercourse with a person who is under the statutory age of consent. In Ohio, Revised Code section 2907.02(A)(1)(b) provides that no person may have sex with a child under the age of thirteen. Ohio Revised Code Section 2907.04(A) provides that no person over the age of eighteen may have sex with a child under the age of sixteen.

d. Dating Violence

“Dating violence” is conduct on the basis of sex that consists of violence committed by a person who is or has been in a romantic or intimate relationship with the complainant. The existence of such a romantic or intimate relationship is determined by the length of the relationship, the type of relationship, and the frequency of interactions between the individuals involved in the relationship.

e. Domestic Violence

“Domestic violence” is conduct on the basis of sex that consists of a felony or misdemeanor crime of violence committed by:

- (a) A current or former spouse or intimate partner of the victim,
- (b) A person with whom the victim shares a child in common,
- (c) A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner,
- (d) A person similarly situated to a spouse of the victim under the domestic/family violence laws of the jurisdiction
- (e) Any other person against an adult or youth victim who is protected from that person’s acts under the domestic/family violence laws of the jurisdiction.

f. Stalking

“Stalking” is conduct on the basis of sex that consists of engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person’s safety or the safety of others; or (B) suffer substantial emotional distress.

For purposes of the definition of Stalking under this Policy:

- A “course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
- A “reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.
- “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking that is not based on sex, but otherwise meets the definition above, is addressed in the Student Handbook and the Employee Handbook.

D. Retaliation Prohibited

Neither NDC nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this Policy, or because the individual has made a report or complaint,

testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding, or hearing provided for in this Policy.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, constitutes retaliation. Complaints alleging retaliation may be filed by students using the student complaint process found in the Student Handbook. Employees and faculty allegations of retaliation should be made to the Director of Human Resources. Any member of the NDC community who commits retaliation will be subject to prompt and appropriate disciplinary action under other student, employee, and faculty conduct procedures.

An individual who brings a complaint under this Policy in good faith, even if it may be erroneous, will not be subject to discipline. However, the use of this policy for false, malicious, or frivolous purposes is strictly prohibited. NDC's decision to charge an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by this provision.

E. Resources for Assistance

Individuals who believe they have experienced Title IX Sexual Harassment under this Policy have multiple resources available to assist them with their needs, both on and off campus. Some resources are confidential, in that they are not required to report Title IX Sexual Harassment to anyone, including NDC or law enforcement. Other resources may have an obligation to report to NDC or law enforcement. More information on available resources is below.

1. Confidential Resources

Confidential resources are those resources that are not required to report information about Title IX Sexual Harassment to NDC. Confidential resources include individuals who are clergy and who are acting in that role, persons providing medical or psychological treatment, and counselors. Rape crisis counselors are also considered confidential resources. For on-campus confidential assistance, please contact:

- NDC Counseling Center, located in Connelly Center, at (216) 373-5387, or at ndcounseling@ndc.edu.
- NDC Campus Ministry
 - Staff
 - Ted Steiner – (216) 373-5387
 - Anita Hooley Yoder – (216) 373-6375
 -
 - Priests
 - Fr. John Blazek – (216) 570-9276 (cell)
 - Mikel Mahoney – (216) 291-2916 (cell)
- Cleveland Rape Crisis Center
 - Call or text CRCC 24-hour Crisis and Support Hotline at (216) 619-6192 or (440) 423-2020
 - Request an appointment online at: <https://clevelandrapecrisis.org/contact/request-an-appointment>
 - Chat online [here](#) to learn more about counseling and/or advocacy available to you on campus or at the main office downtown

Off-campus confidential resources include the following:

- National Sexual Assault Hotline – 1-800-656-HOPE (4673)
- National Domestic Violence Hotline – 1-800-799-7233
- Ohio Sexual Violence Helpline – 1-844-OHIOHELP (1-844-644-6435)
- Ohio Hispanic Coalition Domestic Violence 24 Hour Hotline (614) 840-9934 (Spanish and English)
- Cleveland Rape Crisis Center- (216)-619-6192
- Medical care options in your community, including:
 - o UH Suburban Health Center in South Euclid, Ohio – (216) 382-9492
 - o Hillcrest Hospital in Mayfield Heights, Ohio- (440)-312-4500
- R.A.I.N.N.- 1-800-656-4673

Seeking medical care quickly after a sexual assault may help to preserve forensic evidence that may be unavailable if there is a delay of more than a few days. While an individual may not wish to make a criminal report at that time, the evidence would then be available should the individual choose to pursue criminal charges in the future. Medical information is not available to NDC without a release from the patient.

Note that there are limits to confidentiality. Confidential resources are required to report child abuse or neglect to Children’s Services or local law enforcement. Medical professionals may also have certain legally mandated reporting responsibilities in certain serious cases, although depending on state law, the reporting requirement may only require that the professional share the date, general time, and general location of the incident. Mental health professionals are required to disclose information where there is an imminent threat of harm to self or others. Finally, pursuant to the Clery Act, anonymous statistical information for certain offenses that have been reported as occurring at campus locations must be shared with Campus Security. The information does not include the names or any other identifying information about the persons involved in such incidents.

2. Other Resources

All NDC employees other than the Director of Spiritual Formation are required to report information about suspected Title IX Sexual Harassment to the Title IX Coordinator, who will contact the reporter to offer the opportunity to discuss the matter, seek interim protective measures, and ensure they understand their options under this Policy. While most NDC employees are not able to keep information confidential, they do keep information private and share only with those who need to know the information.

The following officials at NDC are considered to be officials of NDC who have authority to institute corrective measures on behalf of NDC: the President, Provost, Athletic Director, Title IX Coordinator, Dean of Students, Director of Student Conduct, Director of Human Resources, and the Chief of Campus Security. Any and all reports made to these officials will trigger a reasonably prompt response from the Title IX Coordinator that is reasonable in light of the known circumstances.

Note that under Ohio law, all individuals have the obligation to report felonies to law enforcement. (This does not include the confidential resources listed above.) More information on involvement with law enforcement can be found below.

The following non-confidential resources are available on campus:

Judy West, Title IX Coordinator/Director of Human Resources

Location:

Notre Dame College
4545 College Road
South Euclid, OH 44121-4293

Phone Number: 216-373-6396

Email: jwest@ndc.edu

Chris Gill, Deputy Title IX Coordinator/Dean of Students

Location:

Notre Dame College
4545 College Road
South Euclid, OH 44121-4293

Phone Number: 216-373-5181

Email: dcgill@ndc.edu

NDC Campus Police and Safety

Phone: (216) 373-5212

Online Complaint Form: <https://www.notredamecollege.edu/resources-and-services/campus-safety-and-security/citizen-complaint-form/>

In addition to providing information about this Policy, the Title IX Coordinator can provide information on existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for individuals as appropriate, regardless of where the Title IX Sexual Harassment occurred.

3. Law Enforcement

Any individual who believes that they have been the victim of criminal activity may contact NDC Campus Safety at (216) 373-5212 to contact the appropriate local law enforcement agency. In an emergency, individuals should dial 911 before contacting Campus Safety. Contacting law enforcement does not require that the individual press criminal charges.

Law enforcement is not a confidential resource. Reports filed by law enforcement may constitute public records that must be released under state law. However, reports made to law enforcement may help to preserve evidence, particularly in cases of sexual assault, that would therefore be available if an individual should choose to pursue criminal charges at a later time. Law enforcement may also encourage a medical examination and/or the collection of a “rape kit” to preserve relevant evidence for an investigation.

An individual may choose whether to pursue criminal charges, to seek assistance through this Policy, both, or neither. NDC will cooperate with investigations by law enforcement and may, at the request of law enforcement, briefly delay any concurrent investigation by NDC. However, NDC does not defer to law enforcement’s findings in lieu of administering this Policy.

F. Definitions

The following terms are defined for purposes of this Policy:

Coercion. Coercion is defined as unreasonable pressure for sexual activity. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Complainant. An individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment.

Consent. Consent is defined as clear, knowing, and voluntary words or actions, which give permission for specific sexual activity.

- Consent is active, not passive.
- Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in, and the conditions of, sexual activity.
- Silence, in and of itself, cannot be interpreted as consent.
- Consent to any one form of sexual activity does not imply consent to any other forms of sexual activity.
- Previous relationships or prior consent does not imply consent to future sexual acts.
- Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.
- In order to give consent, one must be of legal age. In the state of Ohio, that age is 16.

Force. Force is defined as the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes free will or resistance, or that produces consent.

Formal Complaint. A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment and/or other forms of sexual misconduct against a respondent and requesting that the College investigate the allegations. Formal Complaints must be filed in order to pursue either an informal resolution process or a formal grievance process.

Incapacitation. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).

- Incapacitation can occur mentally or physically, from developmental disability, or by alcohol or other drug use.
- Examples of causes of incapacitation include, but are not limited to, mental disability, sleep, unconsciousness, involuntary physical restraint, consuming alcohol or other drugs, or from the taking of rape drugs.

Respondent. An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Supportive Measures. Non-disciplinary, non-punitive individualized services offered to both the complainant and respondent as appropriate, reasonably available, and without fee or charge.

Title IX Dismissal. If the conduct alleged in a Formal Complaint does not constitute Title IX Sexual Harassment, did not occur in a College education program or activity, or did not occur against a person in the United States, the College must dismiss the Formal Complaint with regard to that conduct for the purposes of Title IX Sexual Harassment. The fact that a Formal Complaint has been dismissed under this Title IX Policy does not mean that the matter is concluded. Depending on the conduct at issue, the relevant policies and procedures in the Student Handbook, Employee Handbook, and/or Faculty Handbook may apply, even after a Formal Complaint is dismissed under this Policy.

G. Grievance Process

All tasks assigned to the Title IX Coordinator under this Policy may be delegated to a designee.

Individuals who require reasonable accommodations due to a disability should consult with the Title IX Coordinator regarding appropriate accommodations for participation in the process.

1. Reporting

Individuals who believe they may have witnessed or been subjected to Title IX Sexual Harassment are encouraged to make a report with the Title IX Coordinator. Any person may report sex discrimination, including sexual harassment, whether or not the person reporting is the person who has been subject to the conduct that constitutes sex discrimination or sexual harassment. This could be done in person, by mail, by telephone, or by electronic mail using the contact information listed above. Such a report can be made at any time (including during non-business hours) by using the telephone number, email address, or by sending mail to the office address listed for the Title IX Coordinator identified in this policy.

Students will be offered amnesty for personal alcohol and drug violations that are incidental to a good faith report so as not to discourage reporting of Prohibited Misconduct.

All employees of NDC that become aware of Title IX Sexual Harassment (other than those previously designated as confidential resources), are required to make a report to the Title IX Coordinator. The person who may have been subjected to Title IX Sexual Harassment is referred to as the complainant. The person who may have committed Title IX Sexual Harassment is referred to as the respondent.

Please note that a report of sexual harassment does not automatically result in a formal investigation as defined in this Policy. The Title IX Coordinator will work to provide supportive measures, access to resources, information about formal and informal resolution procedures, and information about filing a report with the appropriate law enforcement agency, even when no formal complaint is filed or no formal investigation is initiated.

Upon receipt of a report, the complainant will be offered the opportunity for an initial discussion to give the complainant the opportunity to recount what has taken place and discuss how best to proceed. The complainant will be permitted to have an advisor of their choice during this discussion. The Title IX Coordinator will review with the complainant the College's procedures for filing a formal complaint, informal and formal resolution, the rights of the complainant, the availability of supportive measures, information relating to law enforcement reporting if appropriate, and available medical and/or counseling resources as appropriate. Options for, and available assistance in, changing academic and living situations can be discussed and provided if so requested, and if such changes are reasonably available. Except in certain serious circumstances as discussed more below, it is at all times the complainant's decision whether they will file a formal complaint, seek interim measures of protection, pursue informal resolution and/or formal resolution (including the grievance process outlined in Section III.G. of this Policy). As a result of this meeting, depending on the nature of the allegations, the Title IX Coordinator may be obligated to report the incident to law enforcement pursuant to state law.

Upon receiving a report, the Title IX Coordinator will conduct an initial assessment to evaluate whether the complaint alleges sufficient information to meet the jurisdictional and threshold requirements listed in Sections III.B and III.C.

“Supportive Measures” are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or NDC's educational environment, or deter sexual harassment.

Supportive measures may include one or more of the following:

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules,
- Campus escort services
- Mutual restrictions on contact between the parties
- Changes in work or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Other similar measures

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures and shall consult with appropriate supervisors as necessary. NDC must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. For example, if a change in housing locations is determined to be necessary, the Title IX Coordinator may have to share some information with individuals responsible for Housing assignments.

If, after receipt of a complaint and an individualized safety and risk assessment, NDC determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal of a respondent, NDC may remove the respondent on an emergency basis. A removed respondent will receive notice and an opportunity to challenge the decision immediately following the removal. Threats must pose more than a generalized, hypothetical, or speculative risk to health and safety for emergency removal to be appropriate.

Non-student employees may be placed on administrative leave during the grievance process. Placement on such leave is not subject to challenge.

2. Formal Complaint

After the initial discussion with the complainant described in Section A above, the complainant will be asked whether they would like to file a Formal Complaint. “Formal Complaint” is defined as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that NDC investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an education program or activity of NDC. As noted in Section III.F. of this Policy, a Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information found in Section III of this Policy. Additionally, a “document” filed by a complainant” can be in the form of an electronic submission (such as by electronic mail or through an online portal provided for this purpose by NDC) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

If the Title IX Coordinator initiates or signs a Formal Complaint, the Title IX Coordinator will not be considered a “Complainant” as that term is defined in this Policy.

3. Informal Resolution

NDC’s Informal Resolution process involves informal consultation to find an acceptable resolution for both parties without invoking the full investigation and adjudication process described below. The informal process may include counseling the complainant on ways to address the respondent directly regarding their behavior if the complainant is comfortable doing so, counseling of the respondent by the Title IX Coordinator on changing their behavior, a facilitated discussion between the complainant and respondent, a mediated agreement between the complainant and respondent, or any other informal process that is appropriate under the circumstances.

The informal resolution process is voluntary. NDC will not require that a complainant and/or respondent participate in informational resolution and waive the right to a full investigation and adjudication of formal complaints of Title IX Sexual Harassment in order to enroll or continue to be enrolled, or be employed or continue to be employed, or enjoy any other right granted by NDC. The parties may choose to pursue a formal resolution and end the informal resolution process at any time prior to reaching a determination of responsibility.

NDC is responsible for taking the following steps prior to facilitating an informal resolution:

- (1) Providing written notice to the parties of:
 1. the allegations,
 2. the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and
 3. any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- (2) Obtaining the parties' voluntary, written consent to the informal resolution process.

NDC will never offer or facilitate an informal resolution process to resolve allegations that an employee engaged in Title IX Sexual Harassment of a student.

The complainant and respondent are permitted to bring an advisor of their choosing to any discussions as part of the informal resolution process. An advisor may offer their assistance to the complainant or respondent, but may not speak for them during the process.

4. Investigation Process for Formal Complaints

A party may choose to resolve a Formal Complaint through the investigation process, provided that the Title IX Coordinator has conducted an initial assessment and determined that the jurisdiction and threshold requirements listed in Sections III.B and III.C have been met, that Title IX Sexual Harassment may have occurred, and that an investigation is appropriate.

NDC may also choose to move forward with a Formal Complaint signed by the Title IX Coordinator, as described above.

The investigation process will begin with the Title IX Coordinator appointing one or more investigators. An investigator will begin the full investigation promptly, and will conduct the full investigation in a manner that is complete, thorough and impartial.

a. Notice

NDC will provide to all known parties written notice of:

- NDC's grievance process

- The allegations of sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview (“sufficient details” include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Title IX Sexual Harassment as defined by this Policy, and the date and location of the alleged incident, if known);
- The presumption that the respondent is not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- The parties’ right to have an advisor of their choice, who may be an attorney;
- The parties’ right to inspect and review evidence; and
- The date, time, location, participants, and purpose of all hearings, investigative interviews or other meetings, with sufficient time for the party to prepare to participate.

If, during the course of the investigation, additional allegations of Title IX Sexual Harassment are reported or otherwise discovered, the parties will receive notice of these additional allegations that were not included in the original notice. The obligation to notify the parties of the Title IX Sexual Harassment allegations being investigated is an ongoing one.

b. Grounds for Dismissal of Formal Complaint

If, after the initial review of the Formal Complaint by the Title IX Coordinator, it is determined that any of the following conditions exist, NDC will dismiss the Formal Complaint from the Grievance Procedures outlined in this Policy:

- The alleged conduct, if it occurred as alleged, would not constitute Title IX Sexual Harassment;
- The alleged conduct, if it occurred as alleged, did not occur in NDC’s educational programs or activities, or;
- The alleged conduct, if it occurred as alleged, did not occur against a person in the United States.

Although prior determinations on each of these issues were likely made earlier in the process, additional information may be uncovered during an investigation that requires them to be reconsidered. The Title IX Coordinator is responsible for reconsidering these issues at any point during the processes outlined in the Policy, which may result in the report of misconduct being referred to Student Conduct, Human Resources and/or being dismissed from the Grievance Procedures outlined in this Policy.

NDC may also dismiss a formal complaint or allegations therein if:

- A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled or employed by NDC, or;
- Specific circumstances prevent NDC from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Such a dismissal does not preclude NDC from proceeding under another College conduct process.

NDC will send written notice of the dismissal and the reasons for dismissal simultaneously to all parties.

c. Investigative Interviews and Gathering of Evidence

During the investigation, both the complainant and respondent may present statements, witnesses and other evidence to the investigator. The Reporting Person (who may or may not be the complainant), the complainant (if not the

Reporting Person), the respondent, and witnesses with relevant information may be interviewed as part of the full investigation. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. Follow-up interviews may be conducted by the investigator as needed. The full investigation is designed to provide a fair and reliable gathering of the facts.

NDC will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

NDC will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. A party's communication with a witness or potential witness is considered part of a party's right to meaningfully participate in furthering the party's interests in the case, and not an "interference" with the investigation. However, where a party's conduct toward a witness might constitute "tampering" (for instance, by attempting to alter or prevent a witness's testimony), such conduct also is prohibited as retaliation.

NDC will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless NDC obtains that party's voluntary, written consent.

The parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which NDC does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source.

Prior to completion of the investigative report, NDC will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.

All evidence subject to the parties' inspection and review will be available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

d. Timeframe

NDC will attempt to complete most investigations within 90 days. The timeframe for investigations will begin upon filing of a Formal Complaint and will conclude upon distribution of the investigative report to the parties. Investigations may be delayed, and timeframes for investigations may be extended, for good cause and with written notice provided to complainants and respondents including the reason for the delay or extension. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement or civil rights enforcement activity; or the need for language assistance or accommodation of disabilities.

e. Investigative Report

The investigator will prepare an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. If a party disagrees with an investigator's determination about relevance, the party may argue relevance in their written response and/or to the decision-maker at the hearing.

f. Equitable Treatment

Complainants and respondents are eligible for Supportive Measures as defined within this Policy. NDC will not impose

disciplinary sanctions against a respondent unless a determination of responsibility for sexual harassment has been made against the respondent.

NDC will conduct an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence. NDC will not require, allow, rely upon, evaluate, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected by a legally recognized privilege (e.g., attorney client), unless the person holding such privilege has waived the privilege.

g. Bias and Conflicts of Interest

Any individual designated by NDC as a Title IX Coordinator, investigator, decision-maker, or informal resolution process facilitator, must not have a conflict of interest or bias for or against complainants or respondents generally, or for or against an individual complainant or respondent. The following will not be considered evidence of bias:

- The Title IX Coordinator’s initiation of a formal complaint, or;
- An individual’s decision that allegations warrant an investigation.

NDC will apply an objective (whether a reasonable person would believe bias exists), common sense approach to evaluating whether a particular person serving in a Title IX role is biased, and will exercise caution not to apply generalizations that might unreasonably conclude that bias exists. An individual’s current job title, professional qualifications, past experience, identity, or sex will not, alone, indicate bias.

Use of trauma-informed practices will not be considered evidence of bias when such practices do not:

- Rely on sex stereotypes;
- Apply generalizations to allegations in specific cases;
- Cause loss of impartiality, and;
- Prejudge of the facts at issue.

h. Presumption of Non-Responsibility

There is a presumption that a respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

i. Standard of Evidence

The standard of evidence for review of Formal Complaints under this Policy is preponderance of the evidence. “Preponderance of the evidence” is a determination based on facts that are more likely true than not. In the preponderance of the evidence standard, where the evidence in a case is “equal” or “level” or “in equipoise,” the preponderance of the evidence standard results in a finding that the respondent is not responsible.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on NDC and not on the parties.

j. Consolidation of Formal Complaints

NDC may consolidate Formal Complaints as to allegations of sexual 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 sexual harassment rise out of the same facts or circumstances.

k. Advisors during the Investigation

Each party will have the right to bring an advisor of their choosing to any meetings or discussions relating to the investigation of a Formal Complaint. The advisor may advise the party directly and ask clarifying questions, but may not speak for the party or disrupt the investigation. If a party's advisor refuses to comply with restrictions set by NDC, NDC may require that the party use a different Advisor. This provision applies to all parts of the grievance proceeding except for the live hearing described in Section III.G.5 below. For information about the role of Advisors during the live hearing, see Section III.G.5(b).

5. Hearing

When the investigation is concluded, and the parties have had the opportunity to review the evidence and the opportunity to respond in writing to the draft investigative report as described in Section III.G.4(e), NDC will facilitate a live hearing during which each party's advisor will be permitted to ask the other party and any witnesses all relevant question and follow-up questions, including those questions that challenge credibility.

Hearings will be conducted with all parties physically present in the same geographic location or, at the discretion of NDC, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

Hearing witnesses will only participate in the Hearing when they are answering questions. They will not be permitted to observe or otherwise participate in the Hearing unless they are serving as an Advisor, as outlined below in Section III.G.5(b).

NDC will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

The Title IX Coordinator will appoint a person or panel to serve as decision-maker during the hearing. The decision-maker will not be the Title IX Coordinator or the individual who investigated the Formal Complaint.

a. Pre-Hearing Conference

Each party will have their own Pre-Hearing Conference with the decision-maker prior to the hearing. The Title IX Coordinator or decision-maker will communicate to the parties and their advisors the date, time, and format for their Pre-Hearing Conference. The decision-maker and the advisor must be in attendance. While the parties are strongly encouraged to attend, they are not required to do so.

During the Pre-Hearing Conference, the advisors must share with the decision-maker their list of witnesses to appear at the hearing, the identity of any requested witnesses that were not questioned during the investigation, the request for any new evidence to be considered that was not submitted previously to the investigators, and the availability of the advisor and the party for hearing dates.

Evidence and witnesses may only be presented at the hearing if they were submitted to the investigators and made available to the parties for review, unless they were unavailable at the time of the investigation or the relevance was

unknown until the investigative report was submitted. The decision-maker will address any requests to present new evidence and new witnesses at the Pre-Hearing Conference.

The advisor is strongly encouraged to discuss lines of questioning with the decision-maker at the Pre-Hearing Conference to obtain guidance from the decision-maker on relevancy prior to the hearing. Additionally, the decision-maker will discuss the expectations and guidelines for appropriate behavior and decorum during the hearing.

After the conclusion of the Pre-Hearing Conferences, the Title IX Coordinator or decision-maker will provide each party and their advisor with written notice of the date, time, and manner for the hearing, which will typically occur no less than 10 business days after the conclusion of the final Pre-Hearing Conference.

b. Advisors at Hearings

In order to question a party or witness at a hearing, a party must be accompanied by an Advisor. Parties will not be permitted to conduct cross-examination on their own. NDC will not limit the choice or presence of any advisor for a complainant or respondent, and the advisor of their choice may be, but is not required to be, an attorney. If a party does not have an advisor present at the live hearing, NDC will provide without fee or charge to that party, an advisor of NDC's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

At the live hearing, the decision-maker will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. All questioning at the live hearing must be relevant, respectful, and non-abusive. No party will be "yelled" at or asked questions in an abusive or intimidating manner. If a party's advisor refuses to comply with restrictions set by NDC, NDC may require that the party use a different Advisor.

c. Relevance

During the hearing, only relevant cross-examination and other questions may be asked of a party or witness.

The following may be considered irrelevant:

- Repetition of the same question;
- Evidence that is duplicative of other evidence;
- Questions related to information that is protected by a legally recognized privilege;
- Questions related to a party's medical, counseling/psychological, and similar treatment records unless the party has given voluntary, written consent; and
- Questions related to information about the complainant's sexual predisposition or prior sexual behavior, unless:
 - The information is offered to prove that someone other than the respondent committed the alleged Title IX Sexual Harassment, or
 - The information concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

During the hearing, the decision-maker will first determine whether a question is relevant, and explain any decision to exclude a question as not relevant, *before* a complainant, respondent, or witness answers a cross-examination or other question.

d. Weighing Credibility

The decision-maker will evaluate all admissible, relevant evidence for weight or credibility. The degree to which any inaccuracy, inconsistency, or implausibility in a narrative provided by a party or witness should affect a determination regarding responsibility is a matter to be decided by the decision-maker, after having the opportunity to ask questions of parties and witnesses, and to observe how parties and witnesses answer the questions posed by the other party. Corroborating evidence is not required.

Credibility determinations are not based solely on observing demeanor, but also are based on other factors (e.g., specific details, inherent plausibility, internal consistency, corroborative evidence). Cross-examination brings those important factors to a decision-maker's attention.

A party's answers to cross-examination questions can and should be evaluated by a decision-maker in context, including taking into account that a party may experience stress while trying to answer questions. Parties will not be unfairly judged due to inability to recount each specific detail of an incident in sequence, whether such inability is due to trauma, the effects of drugs or alcohol, or simple fallibility of human memory.

e. Decision

The decision-maker must objectively evaluate all relevant evidence, both inculpatory and exculpatory, and must independently reach a determination regarding responsibility without giving deference to the investigative report. The decision-maker has the right and responsibility to ask questions and elicit information from parties and witnesses on the decision-maker's own initiative to aid the decision-maker in obtaining relevant evidence, both inculpatory and exculpatory. The parties will have equal rights to present evidence in front of the decision-maker so the decision-maker has the benefit of perceiving each party's unique perspectives about the evidence.

If a party or witness does not submit to cross-examination at the live hearing, the decision-Maker is permitted to consider prior statements of the party or witness in reaching a determination regarding responsibility, however, in analyzing whether there is a policy violation, the decision-Maker will give appropriate weight to statements not subject to cross examination. The decision-Maker will provide a written determination of assessment of appropriate weight given to such statements based on standards for weighing credibility found within this policy. The decision-Maker/Panel will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Video evidence showing the conduct alleged within a complaint may be considered, even if the party does not submit to cross-examination. A respondent's alleged verbal conduct, that itself constitutes the sexual harassment at issue, is not considered the respondent's statement, and constitutes part or all of the underlying allegation of sexual harassment itself.

After the hearing, the decision-maker will issue a written determination of responsibility. This determination will include:

- Identification of the allegations potentially constituting Title IX Sexual Harassment
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the Policy to the facts;

- A statement of, and rationale for, the result as to each allegation, including:
 - a determination regarding responsibility,
 - any disciplinary sanctions NDC imposes on the respondent,
 - whether remedies will be provided by NDC to the complainant; and
- NDC's procedures and permissible bases for the complainant and respondent to appeal.

The determination will lay out the evidentiary basis for conclusions reached in the case. The nature of remedies, if any, will not be included within the determination. The determination will be provided to the parties simultaneously, within a reasonable time after the hearing, which is typically within 10 business days, unless the decision-maker determines that additional time is needed to make a decision.

The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

f. Sanctions and Remedies

The following sanctions may be imposed upon students who are found to have violated this Policy:

- Education
- Residence Hall Suspension
- Suspension from the College
- Expulsion

Sanctions that may be imposed include:

- Continuing "no contact" orders;
- Trespass order prohibiting presence on campus, at NDC-owned facilities, and/or at campus activities or events;
- Required counseling;
- Alcohol/drug assessment;
- Campus Restriction on behavior, access to certain campus facilities, participation in campus activities, housing restrictions, and/or scheduling restrictions;
- Social Probation
- Written warning of employee;
- Suspension of employee, with or without pay;
- Termination of employment; and
- Cancellation of third-party contract.

When a determination of responsibility for Title IX Sexual Harassment has been made, NDC will provide remedies to a complainant designed to restore or preserve equal access to NDC's education program or activity. Such remedies may include the same individualized services provided as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent after a determination of responsibility for Title IX Sexual Harassment has been made. The Title IX Coordinator is responsible for effective implementation of remedies. Where the final determination has indicated that remedies will be provided, the complainant can then communicate separately with the Title IX Coordinator or their designee to discuss what remedies are appropriately designed to preserve or restore the complainant's equal access to education. Remedies for a complainant which do not affect the respondent must not be disclosed to the respondent.

6. Appeals

Complainants and respondents may appeal the decision-maker's determination regarding responsibility within five (5) business days from the date of the written determination described in Section III.G.5.d of this Policy. Complainants and respondents may also appeal NDC's dismissal of a Formal Complaint or any allegations therein within five (5) business days from the date of the written notice of dismissal described in Section III.G.4.b of this Policy. NDC will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. The non-appealing party will have five (5) business days from the date of the written notice of the appeal to submit a written statement in response to the appeal.

Grounds for appeal include:

- Procedural irregularity that affected the outcome of the matter
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter, and;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

All grounds for appeal will be available to all parties.

The decision-maker for the appeal will not be the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator. The decision-maker for the appeal will issue a written decision describing the result of the appeal and the rationale for the result and provide the written decision simultaneously to both parties within 5 business days of the date the non-appealing party's written response to the appeal is received.

7. Record-Keeping

NDC will retain all records of each investigation instituted under this policy for seven (7) years. Records will include all documents, recordings, or transcripts from investigations, hearings, appeals, and informal resolutions. The first date of the first record created by NDC will begin the seven year retention period. Records will be maintained for all investigations including investigations that have been dismissed, completed, or otherwise resolved.

NDC will also maintain and publish on NDC's website training materials of employees who serve as Title IX Coordinators, investigators, decision-makers, and persons who facilitate information resolutions.

8. Education and Training

NDC conducts annual training on sexual harassment, sexual misconduct, dating violence, domestic violence, and stalking for all faculty, staff, and Board of Trustee members. Students are provided with various training opportunities, and all student athletes receiving training on Title IX.

The Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process, will receive training on the definition of sexual harassment, the scope of NDC's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Investigators will receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Decision-makers will receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

Training materials for training under this section will be made publicly available through NDC's website.

The Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process, will receive annual training on issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

2.4 Alcohol and Controlled Substance Policy

Notre Dame College has a vital interest in maintaining a safe, healthful and productive workplace and educational environment. The College recognizes that the possession, use or distribution of controlled substances in or around the College presents a threat to the health, safety and productivity of our employees. Therefore in an effort to cooperate to the fullest extent possible with the Drug-Free Workplace Act of 1988 and Chapter 3719 of the Ohio Revised Code, the College has established the following policy.

The actual or attempted manufacture, distribution, dispensation, sale, purchase, transfer or unauthorized possession of alcohol or any controlled substance by any employee while on the College's premises is prohibited. Compliance with this policy is a condition of employment and any employee who engages in any such conduct will be subject to criminal prosecution to the full extent of applicable federal, state and local laws. In addition, the Controlled Substances Act, 21 U.S.C. 845a, makes it a federal crime to distribute, possess with the intent to distribute or manufacture a controlled substance within 1000 feet of a school or college punishable by double the sentence that would apply if the crime occurred elsewhere.

The consumption or use of alcohol (except the moderate consumption of alcohol at College-sponsored events where the use of alcohol is approved by the College) or any non-prescription controlled substance by any employee while on the College's premises or while on College-sponsored business and supervising or monitoring any of the College's students is prohibited. Reporting to work, either at the beginning of the employee's work shift or following any break, or being on College property while under the influence of alcohol or any non-prescription controlled substance by any employee is prohibited. The illegal use of prescription drugs while on duty, while on College property, while on College-sponsored business or while supervising or monitoring any of the College's students is also prohibited. Compliance with this policy is a condition of employment. Any employee who engages in such prohibited conduct will be subject to disciplinary action up to and including termination.

Any employee who is convicted of a violation of any criminal drug statute occurring on the College's premises must notify the College no later than five (5) days after such conviction. Such employee will be subject to discharge.

If your job duties include driving either your own or a College vehicle, you must report any DUI's on or off-duty no later than 24 hours after arrest.

Employees can obtain information concerning drug and alcohol counseling, treatment and rehabilitation resources from Human Resources.

2.5 Reasonable Accommodation

The College provides reasonable accommodations to otherwise qualified employees who are disabled or become disabled and need assistance to perform the essential functions of their positions, in accordance with the law. The interactive process shall be used to determine what, if any, reasonable accommodation will be made.

2.6 Employment Applications and Resumes

The College relies upon the accuracy of all information contained in the employment application, as well as the accuracy of other data and information presented in your resume and throughout the hiring process and subsequent employment. Any misrepresentation, falsification or material omission of any of this information may result in your exclusion from further consideration for employment or, if you have already been hired, termination of employment.

2.7 Background Checks

A background check of a candidate is an important part of the selection process when hiring new employees and volunteers. A background check is conducted to promote a safe work environment and to protect the College's most important assets: the people the College serves.

A satisfactory background check is defined as the absence of a criminal history record which, in the College's sole discretion, bears a significant relationship to the applicant's or employee's suitability to perform the required duties and responsibilities of the position. In the case of an individual that may function within a financial capacity or have job duties that handle financial accounts, a background check related to their financial and credit history may also be required.

Employees subject to pre-employment background checks include all faculty, adjunct faculty, full-time staff, part-time staff, seasonal and temporary staff, all coaches including volunteer coaches and employees who are rehired by the College after a twelve-month break in service.

Human Resources will be responsible for conducting background checks through the appropriate vendors. Copies of Background Check Consent Forms and Background Reports will be maintained in Human Resources. All applicants must complete and sign the appropriate Notre Dame College Background Check Consent Form. Falsification of information submitted on College application materials may be grounds for disqualification or separation.

During the final interview process, all candidates will be notified that any job offer is contingent upon successful completion of the background check. (e.g., "Successful completion of a background check is required for employment.")

Only criminal convictions, guilty pleas, and pleas of no contest will be considered in determining an applicant's suitability for employment. Detention or arrest without conviction or plea of no contest typically do not constitute valid grounds for employment decisions or play a part in the decision-making process.

In determining an applicant's suitability for employment where the applicant has criminal convictions on the applicant's record, consideration will be given to the specific duties of the position, the number of offenses and circumstances of each, the length of time since the conviction(s), and the accuracy of the explanation on the application.

If a candidate or current employee disputes the accuracy of any information obtained in a background check (including criminal records), the employee shall be referred to the agency that provided the information. Such dispute may impact the hiring process. A candidate disputing the accuracy of information will have three (3) business days to conclusively demonstrate the inaccuracy of the information obtained in a background check, after which time an employment decision may be made.

In the event that an employee subject to this policy receives a criminal conviction after successful completion of the initial background check, that employee must inform Human Resources. Human Resources will then determine whether or not the conviction is relevant to the employee's job under this policy. If the conviction is not relevant, no adverse action will be taken. If the conviction is relevant, employment may be terminated or the employee may resign. Employees who fail to notify Human Resources about a "subsequent criminal conviction" will be terminated for cause.

2.8 Employment of Relatives

In accordance with general College policy, the basic criteria for the hiring and promotion of all College employees shall be appropriate qualifications and performance. Relationship by family or marriage shall constitute neither an advantage nor a deterrent to hiring by the College, provided the individual meets and fulfills appropriate institutional hiring standards.

Due to the potential for perceived or actual conflicts, such as favoritism or personal conflicts from outside the work environment which can be carried into the daily working relationship, the following restrictions apply to the hiring of relatives. No person shall be assigned to a department or unit under the supervision of a relative who has or may have a direct effect on the person's progress or performance, nor shall relatives work for the same immediate supervisor, without prior written approval of the administrative head of the organizational unit, the office of the President, and the Director of Human Resources, as appropriate. The President may grant exceptions to this policy for temporary appointments or if it is in the best interest of the College to do so.

Both individuals have the obligation to disclose their relationship. Should individuals become "relatives" for purposes of this policy after hire, the College reserves the right to remove any actual or perceived conflict by transferring duties or positions. In some cases, termination may be the action chosen by the College.

For the purpose of this policy, "relative" is defined as any of the following: relationship by law—guardian; relationship by blood—parent, child, grandparent, grandchild, brother, sister, uncle, nephew, niece, first cousin; and relationships by marriage—husband, wife, step-parent, stepchild, brother-in-law, sister-in-law, father-in-law, mother-in-law, son-in-law, daughter-in-law, half-brother, half-sister, uncle, aunt, nephew, nieces, spouse/partner of any of the above and cohabitating couples, and "significant others" (i.e., those in dating relationships). This definition is not to be construed to exclude the possibility of questions of nepotism in the case of other relationships.

For the purpose of this policy, nepotism is defined as appointment and/or promotion bestowed in consideration of family or personal relationship and not merit.

The College reserves the right to apply this policy to situations where there is a conflict or the potential for conflict because of the relationship between employees, even if there is no direct reporting relationship or authority involved. In these situations, the College reserves the right to remove any actual or perceived conflict by transferring duties or positions. In some cases, termination may be the action chosen by the College.

2.9 Outside Activities

Employees are required to conduct their activities on behalf of the College with the utmost good faith and loyalty. Employees may not compete with the College or convert business opportunities of the College to their personal gain or advantage or the gain or advantage of another. Employees may not convert confidential information or trade secrets of the College to their personal gain or advantage or the gain or advantage of others.

Outside employment may not interfere with efficient performance of the institutional assignment. The outside job may not conflict with the interests of the College. The outside employment may not be of a type that would reasonably give rise to criticism or suspicion of conflicting interests or duties. The employee shall provide advance

notification to their supervisor of the anticipated outside employment. The supervisor, in turn, will notify the unit vice president who will decide if the President's permission is needed, based on the type of employment.

2.10 Conflict of Interest

1. An individual's status as an employee takes precedence over the employee's status as a student. There may be instances where policies or laws for students on a particular subject will differ from policies or laws for employees on that same subject. In those instances, employees must follow the policy as it applies to employees and may not claim that they are exempt from an employee policy due to their additional status as a student. In order to avoid conflicts of interest, employees may not seek or hold a student office, either elected or appointed. An employee may not work on school assignments during work hours, unless the employee has obtained special permission from the appropriate supervisor.

In cases where an employee has a work-related issue, the employee must utilize the policies and procedures applicable to employees. Issues arising as a result of an employee's status as a student must be resolved according to policies and procedures applicable to students. Individuals who are employees and students of the College are responsible for their conduct in both arenas.

2. The purpose of the following policy and list of procedures is to prevent the personal interests of staff members and college officers from interfering with the performance of their Notre Dame College duties. A potential conflict of interest occurs when the personal or private interests might lead an independent observer reasonably to question whether the individual's professional actions or decisions are influenced by considerations of significant personal interest, financial or otherwise at the expense of Notre Dame College. As soon as a transaction could potentially create a conflict of interest, the college officer, staff or faculty member shall take the following actions of this policy.
 1. Disclosure. Disclose fully in writing the precise nature of his/her interest in such transaction to the College President or designate; and,
 2. Non-Participation. Refrain from participation (individually or as a committee member) in the College's consideration of the proposed transaction unless permitted by the College President.

Definitions

1. Conflict of Interest- a conflict, or the appearance of a conflict between the private interests and official responsibilities of a person in a position of trust and responsibility at Notre Dame College. Persons in a position of trust at Notre Dame College include staff members, faculty members, members of the administration and Board of Trustees of Notre Dame College.
2. Board- means Board of Trustees
3. Staff Member- means a person who receives all or part of his/her income from the payroll of Notre Dame College including but not limited to: directors, officers and employees of the college.
4. Family Member- a spouse, parent, child or spouse of a child, brother or sister, or spouse of a brother or sister, of a staff member.
5. Material Financial Interest- a financial interest of any kind, which, in view of all the circumstances, is substantial enough that it would, or reasonably could, affect a staff member's or family member's judgment with respect to transactions to which the entity is a party.
6. Contract of Transaction- any agreement or relationship involving the sale or purchase of goods, services, or rights of any kind; the providing or receipt of a loan or grant, the establishment of any other type of pecuniary relationship; or review of a charitable organization by Notre Dame College. The making of a gift to Notre Dame College is not a Contract or Transaction.

Policy and Practices

1. Full disclosure, by notice in writing shall be made by the interested parties to the College President or a designate in all conflicts of interest, including but not limited to the following:
 - a. A staff member is related to another staff member by blood, marriage, or domestic partnership.
 - b. A staff member in a supervisory capacity is related to another staff member who she/he supervises.
 - c. A staff member or their organization stands to benefit from a transaction, or a staff member of such organization receives payment from another organization for any subcontract, goods, or services other than as part of her/his regular job responsibilities or as reimbursement for reasonable expenses incurred as provided in the bylaws and board policy.
 - d. A staff member's organization received funding from Notre Dame College.
 - e. A staff member is a member of the governing body of a contributor to Notre Dame College.
 - f. A staff member competing with Notre Dame College in the rendering of services or in any other contract or transaction with a third party.
 - g. A staff member's having a material financial interest in; or serving as a director, officer, employee, agent, partner, associate, trustee, personal representative, receiver, guardian, custodian, conservator, or other legal representative of or consultant to; an entity or individual that competes with Notre Dame College in the provision of services or in any other Contract or Transaction with a third party.
 - h. A staff member accepting gifts, entertainment or other favors from any individual or entity that:
 - i. Does or is seeking to do business with, or is a competitor of Notre Dame college; or
 - ii. Has received, is receiving or is seeking to receive a loan or grant, or to secure other financial commitments from Notre Dame College.
2. Following full disclosure of a possible conflict of interest or any condition listed above, the College President shall determine whether a conflict of interest exists and, if so, the College President shall authorize or reject the transaction or take any other action deemed necessary to address the conflict and protect Notre Dame College's best interests.
3. Prior to an action on a contract or transaction involving a conflict of interest, a staff member having a conflict of interest and who is in attendance at the meeting shall disclose all facts material to the conflict of interest. Such disclosure shall be reflected in the minutes of the meeting.
4. A staff member who plans not to attend a meeting at which he or she has a reason to believe that the College will act on a matter in which the person has a conflict of interest shall disclose to the chair of the meeting all facts material to the conflict of interest. The chair shall report the disclosure at the meeting and the disclosure shall be reflected in the minutes of the meeting.
5. An interested officer or staff member shall not participate in any discussion or debate or of any committee or subcommittee thereof in which the subject of the discussion is a contract, transaction, or situation in which there may be a perceived or actual conflict of interest. However, they may be present to provide clarifying information in such a discussion or debate unless objected to by any present committee member.
6. Anyone in a position to make decisions about spending Notre Dame College's resources who also stands to benefit from that decision has a duty to disclose that conflict as soon as it arises (or becomes apparent). He or she should not participate in any final decisions.
7. In the event that it is not clear that a conflict of interest exists, the individual with the potential conflict shall disclose the circumstances to the College President who shall determine whether there exists a conflict of interest that is subject to this policy.

Confidentiality

1. Each staff member shall exercise care not to disclose confidential information acquired in connection with such status or information the disclosure of which might be adverse to the interests of Notre Dame College. Furthermore, a staff member shall not disclose or use information relating to the business of Notre Dame College for the personal profit or advantage to themselves or a family member.

Review of Policy

1. A copy of this policy shall be given to all staff members, and other key persons having a relationship with Notre Dame College. Each officer and staff member shall sign and date the policy at the beginning of his or her term of service or employment and each year thereafter. Failure to sign does not nullify the policy.
2. Each new staff member or officer of Notre Dame College shall be required to review a copy of this policy and to acknowledge in writing that he or she has done so.
3. This policy and disclosure form must be reviewed and filed annually by all specified parties. All staff members and officers of the College shall identify any relationships, positions or circumstances in which they are involved which he or she believes could contribute to a conflict of interest.
4. This policy shall be reviewed by the College President or designate annually and any changes will be communicated immediately to all staff members and officers of the College.

2.11 Intellectual Property Policy

Intellectual Property at Notre Dame College: Ownership of Instructional Works

1. INTRODUCTION

Pursuant to the College's mission, Notre Dame College (NDC) creates, preserves, and disseminates knowledge through teaching, learning, research, and scholarship. That knowledge may involve faculty, student, staff, and third-party authors and creators. It often takes the form of intellectual property which can be further developed and/or shared with others, locally, nationally, and globally, for further societal benefit. This Policy seeks to protect the interests of both intellectual property creators and NDC, while also ensuring that both the NDC community and society benefit from the fair and full dissemination of knowledge and innovation.

Please reference the Notre Dame College *Conflict of Interest* policy statement as it applies to the development of intellectual property, scope of employment and significant use of resources as defined in this policy.

Nothing in this policy relieves NDC of the obligation of adhering to Federal and State law or third party contracts and agreements.

2. EFFECTIVE DATE

This policy will be effective March 15, 2010 ("Effective Date") for all personnel. It will apply to all Intellectual Property disclosed on or after the Effective Date. Intellectual Property disclosed before the Effective Date will be subject to this policy unless otherwise agreed by NDC and all Creators of the Intellectual Property.

3. DEFINITIONS

Terms not defined elsewhere in this policy are defined below.

- a. **Assigning Creator** means an individual or group of individuals who have assigned IP rights and title to NDC under this Policy.
- b. **Course** means a comprehensive set of individual units of learning, usually defined by expected outcomes, in which participants engage prescribed subject matter as determined by Curriculum. A course often transcends a single faculty member's design, to engage institutional sanction and authority.
- c. **Course Material** means educational subject-matter artifacts used to deliver a Course, including syllabi, bibliography, outlines, assignments, structured lessons, quizzes, tests, grading rubrics, notes, presentations, and examples created for NDC classroom and learning programs that are used to deliver Courses.
- d. **Course Packs** means a compilation of various reproduced copyrighted works (e.g., articles from journals, chapters from textbooks, and various other readings) that an instructor assembles, and that students may purchase at a college bookstore. Permissions must be obtained and copyrights cleared to create and reproduce printed course packs for sale.

- e. **Creator** means any individual or group of individuals, affiliated with the college or not, who make, conceive, reduce to practice, invent, author, or otherwise make a substantive intellectual contribution to the creation of Intellectual Property.
- f. **Curriculum** means the descriptive attributes of a collection of NDC Courses, such as course descriptions, course sequences, intended learning outcomes, evaluation methods and assessment materials, and, Course topics, that constitute an area of specialization.
- g. **Derivative work** is a work based upon one or more pre-existing works for example, translations, screenplays based on books, musical arrangements, dramatizations, and fictionalizations. The right to create derivative works is one of the exclusive rights granted to copyright owners. As a result, authors of potentially derivative works should seek permission from the author of the original works, or assert fair use as legally permitted.
- h. **Externally Funded Works** means any development work that is funded by governmental, commercial, industrial, or other public or private organizations, that is the subject of an agreement or other contract with NDC.
- i. **Intellectual Property or IP** means and includes any disclosure of
 - inventions, either orally or in writing (*an invention represent a new scientific or technical idea, and the means of its embodiment or accomplishment, which is subject to specific tests to be patentable*);
 - inventions and discoveries (patented, patentable or otherwise);
 - know-how and other trade secrets;
 - processes;
 - unique materials;
 - works of authorship;
 - software;
 - other creative, artistic, or copyrightable works;
 - trademarks and service marks;
 - mask works (*mask works are generally three dimensional-patterned images that are used with the design of integrated circuitry*); and,
 - any other tangible or intangible thing protectable at law which has value.

IP also includes physical embodiments of intellectual effort, e.g., models, machines, devices, designs, apparatus, instrumentation, circuits, computer programs, biological materials, chemicals, other compositions of matter, plants, research records and data, and laboratory notebooks and reports.

- j. **Internally Funded Works** means any research or development project funded by an NDC division or department with NDC funds (a “sponsored work”).
- k. **Original Work** means any IP, produced by Creator or Personnel, other than Course Material or Scholarly Works.
- l. **Personnel** means all regular and temporary NDC employees, and Students Employees acting in the scope of employment (including work study assignments), as well as non-employee consultants, visiting instructors, participants of NDC sponsored projects and programs, visitors, and others using Resources. This Policy shall continue to bind any person whose relationship with NDC becomes terminated.
- m. **Resources** means any support administered by or through NDC including funds, facilities, services, equipment, or Personnel; and funds, facilities, services, equipment, or Personnel which are provided by government, commercial, industrial, or other public or private organizations and administered or controlled by NDC.
- n. **Scholarly Works** include textbooks, theses, dissertations, scholarly papers, artistic works, and other works resulting from independent academic efforts which are covered by copyright law. Scholarly Works shall not include courseware (works acting as a tool or building block to produce a course), device-like works or institutional works. NDC employees who fulfill the staff role in developing Scholarly Works shall be considered performing a work made for hire.

- o. Scope of Employment** means all activities related to: (1) the field or discipline of an NDC faculty member's appointment, including the general obligation of a faculty member to teach, to do creative work, and to conduct research; and (2) the employment responsibilities of non-faculty NDC Personnel for which such Personnel receive compensation from NDC, where compensation is any consideration, monetary or otherwise, including the ability to use Resources. When determining the employment responsibilities of non-faculty NDC Personnel, the primary source for determination should be that individual's job description or similar written statement of duties.
- p. Works Made For Hire** means that creation of course material or a course is either conducted by an employee within the scope of their employment, or that the course material or course is mutually agreed upon by NDC and the employee via contract that the work is specifically assigned to the employee, work subject to contractual restrictions or commissioned by the college, and, therefore considered a work made for hire.
- q. Significant Use of Resources** means use of Resources, including assistance from Personnel that is not nominal or incidental and is material to the development of the applicable Intellectual Property. NDC acknowledges that the precise determination of what usage of Resources shall be considered significant involves the exercise of judgment based on the circumstances and on practices within the discipline. Although it is the responsibility of the Vice President of Academic Affairs or Dean of Online Educational Services to evaluate situations and determine if substantial use of resources has occurred, Personnel have an obligation to notify their supervisor or primary contractual NDC contact person when their work may involve more than nominal use.

Significant Use of Resources includes:

1. the use of specialized facilities, equipment, services or supplies provided by NDC;
2. more than nominal or incidental use of NDC non-faculty Personnel, including Students;
3. extended use of Personnel's time and energy (on-the-job time) in creating or promoting the work that results in significantly reduced levels of job performance.

Significant Use of Resources does not include:

1. Student use of Resources to fulfill their Course requirements.
2. Nominal or incidental use of resources, including the use of routinely available office equipment, assigned office space, desktop and laptop computers, telephones, library facilities, and copiers

4. GENERAL PROVISIONS

- A. Purpose.** The purpose of this Policy is to set forth the terms and conditions whereby NDC, Personnel, and Students establish and maintain their interests in Intellectual Property created by or used at NDC, taking into account NDC activities, applicable laws, federal policies, and the mission of NDC. However, it is acknowledged that such activities and other factors are diverse and subject to sometimes rapid change. Therefore, this Policy cannot and should not be mechanically applied to every situation that might arise. Decisions are expected, in the exercise of professional judgment, to best serve the public, to result in the effective and efficient transfer of knowledge, and to be consistent with NDC policies and objectives. Procedures under this Policy shall be established by the Vice President of Academic Affairs and shall be consistent with interpretations of this Policy. In the event of a conflict between the procedures established and this Policy, this Policy shall govern.

Subject to the foregoing, this Policy also recognizes certain general principles:

1. NDC encourages the wide dissemination of ideas and creative works produced at NDC for the greatest possible public benefit.
2. The traditional right of scholars to publish should be protected.
3. If NDC provides extra or special support for the development or production of ideas and works, either with money, facilities, equipment, or staff, it is reasonable for NDC to be reimbursed for its extra or special costs and/or to participate in the fruits of the enterprise if the resulting ideas or works are introduced commercially.

- B. **Scope.** All affected Personnel and Students shall comply with this Policy, as amended from time to time. This Policy is considered part of the conditions of employment, enrollment, or participation in a sponsored research or development project.
- C. **Unauthorized Actions.** Personnel and Students may not: (1) sign agreements or take any action on behalf of NDC unless they are authorized agents of NDC and have the express permission of the Vice President for Academic Affairs; (2) make unauthorized use of NDC's name; (3) engage in the creation of any course or course materials without the expressed written consent of the Vice President of Academic Affairs (for face-to-face courses) or the Dean of Online Educational Services (for online courses). NDC will not honor unauthorized actions or agreements.
- D. **Acquisition.** NDC may acquire ownership or use of Intellectual Property by assignment, license, gift, or any other legal means. NDC shall administer such Intellectual Property in accordance with this Policy unless otherwise required by the terms of the acquisition.
- E. **Administration of Non-NDC-owned Intellectual Property.** At the request of the owner, Intellectual Property not owned by NDC may be administered by NDC. This Policy shall govern that administration unless NDC agrees otherwise in writing.

5. OWNERSHIP AND USE

- A. **NDC General.** NDC shall have the right to reproduce, revise, create derivative works, and otherwise use for research and educational purposes any course materials or courses, whether owned by NDC, Personnel, or Graduate Students (*acting in the scope of NDC employment*), created in whole or in part through the use of any Significant Resources or works otherwise agreed upon as created as a Work Made For Hire. NDC further reserves the right to pursue multiple forms of legal protection for IP which it owns or for which it claims ownership.

B. Responsibilities of Personnel and Students

1. **Assignment.** For course material, courses, and other work to which NDC has or had rights of ownership or use under this Policy, Creators, Personnel, and Students shall, upon request, execute all appropriate legal documents, including assignments, and perform such acts designed to assist NDC or its assignees in proving or benefiting from such rights, all as deemed appropriate by NDC but at no out-of-pocket expense to applicable Creator(s). An example of such an assignment document is attached to this policy.
2. **Use.** All Personnel are responsible for complying with NDC policies and guidelines, and all applicable laws regarding Intellectual Property.
3. **Personnel.** Newly employed or newly engaged Personnel shall disclose in writing to the Vice President of Academic Affairs any IP they own or have developed, which they plan to continue using, teaching, or researching while employed or engaged by NDC. The Vice President of Academic Affairs shall determine the appropriate ownership of this IP, in consultation with the college's legal counsel. Should it be determined that the Personnel do not own the IP, its use at NDC may be restricted. Should it be determined that the Personnel own the IP, its use at NDC shall be consistent with other NDC policies and procedures.

C. Responsibilities of NDC

Use of Resources. When NDC authorizes or directs efforts to create a course or course materials, it shall enter into a written agreement addressing the extent of use of such Resources, the schedule for the project (if appropriate), control over the work and its revisions, and ownership of the resulting IP, if any. An example of such an agreement as it relates to the appointment to create a course or course materials is attached.

D. **Curriculum** shall be owned by NDC.

E. **Course or Courses** shall be owned by NDC.

F. **Course Material** copyrights shall be owned by the Creator or Personnel regardless of their use in Distance Learning or Electronic Delivery of Course Material unless they:

1. are subject to any claim of ownership by another entity or individual. In that case, Course Material shall be owned by the other entity or individual with the valid claim of ownership.
2. were created with the Significant Use of NDC resources. In that case, Course Material shall be owned by NDC.
3. were created in connection with an expressed assignment or works made for hire (“commissioning”). In that case, Course Material shall be owned by NDC.

G. Original Work shall be fully owned by the Creator or Personnel unless it:

1. is subject to any claim of ownership by another entity or individual. In that case, Original Work shall be owned by the other entity or individual with the valid claim of ownership.
2. was created with the Significant Use of NDC resources. In that case Original Work shall be owned by NDC.
3. was created in connection with an expressed assignment or works made for hire (“commissioning”). In that case, the Original Work shall be owned by the entity or individual providing the expressed assignment.
4. was created within the Creator’s Scope of Employment, under an Internally or Externally Funded Works program, or other agreement which requires the IP to be assigned to NDC or Sponsor.

H. Scholarly Works shall be owned by the Creator or Personnel unless they:

1. are subject to any claim of ownership by another entity or individual. In that case, Scholarly Works shall be owned by the other entity or individual with the valid claim of ownership.
2. were created with the Significant Use of NDC resources. In that case Scholarly Works shall be owned by NDC.
3. were created in connection with an expressed assignment or works made for hire (“commissioning”). In that case, Scholarly Works shall be owned by NDC.
4. were created under an internal or external funded works program, or other agreement which requires the IP to be assigned to NDC or Sponsor.

I. Externally Funded Works shall belong to NDC unless specified in a written agreement or applicable federal or state laws and regulations. However, on a case-by-case basis NDC may agree to assign ownership or licensing rights to the sponsor subject to NDC’s right to reproduce or otherwise use the Intellectual Property for educational purposes. The Vice President of Academic Affairs shall approve any such agreement.

I. Internally Funded Works shall belong to NDC. However, on a case-by-case basis NDC may agree to assign ownership or licensing rights subject to NDC’s right to reproduce or otherwise use the Intellectual Property for educational purposes. The Vice President of Academic Affairs shall approve any such agreement.

6. INTELLECTUAL PROPERTY ADMINISTRATION

A. Administrative Responsibility – The College President has ultimate authority for the stewardship of Intellectual Property developed by NDC. Primary responsibility has been delegated to the Vice President of Academic Affairs, who shall be responsible for operational guidelines and procedures for administration of IP, including determination of ownership, assignment, protection, licensing, marketing, maintenance of records, approval of individual exceptions, and initial resolutions of disputes among Creators and/or affected individuals or NDC organizations.

B. Disclosure – All Intellectual Property in which NDC has an ownership interest under this Policy and that has the potential to be brought into practical use for public benefit or for which disclosure is required by law shall be reported in writing by the Creator to the Vice President of Academic Affairs using the disclosure form provided by that office as amended from time to time. The disclosure of the subject matter of the discovery or development shall be full and complete and identify the Creator. The Creator shall furnish such additional information and execute such other documents from time to time as may be reasonably requested.

C. Assignment of NDC IP to Creator – If NDC decides to cease development or protection of any NDC-owned IP, ownership may be assigned to the Creator as allowed by law subject to the rights of sponsors and to the retention of an internal use license to, at least, reproduce and otherwise use the IP for NDC purposes of education and public service on an irrevocable, royalty-free, non-exclusive basis. The assignment or license may be subject to additional terms and conditions, such as reimbursement of the costs, when justified by the circumstances of development.

D. Acceptance of Independently Owned Intellectual Property – NDC may accept assignment of IP from others provided such action is determined to be consistent with this Policy and provides some value to NDC.

E. Consulting Agreements and Arrangements – NDC Personnel engaged in, or engaging others in, consulting work or businesses, whether formalized in writing or not, are responsible for ensuring that those consulting agreements or arrangements are not in conflict with NDC contractual agreements, this Policy, or other NDC policies, including any conflict of interest policy as amended from time to time. Personnel shall make this Policy and their NDC obligations known to others with whom they make such agreements or arrangements.

F. Statement by Creators – Creators of IP owned by NDC may be required to state that, to the best of their knowledge, the IP does not infringe on any existing patent, copyright, or other legal right of third parties; that it a work is not original with the Creators, all necessary permissions have been obtained; and that the work contains no libelous or otherwise offensive material or material that invades the privacy of another.

G. Revenue distribution – All revenue received by NDC shall be governed by this Policy, and NDC shall have no financial obligation to any Creator, or designated beneficiary of Creator, with respect to Intellectual Property except in accordance with this policy. Sometimes Intellectual Property is co-owned with another institution or entity. NDC will enter into an inter-institutional agreement with such entity under which income and expenses will be shared and the responsibility for IP protection will be assigned. NDC may also engage a third party to license IP if the third party has special expertise, and the third party may be allocated a portion of the related revenue.

Please review the various summaries of copyright law and related frequently asked questions (FAQs) on copyrights as provided on the internet. For example, the frequently asked questions about copyright – copyright.com

[http:// www.copyright.com/viewPage.do?pageCode=cr11-n](http://www.copyright.com/viewPage.do?pageCode=cr11-n)

2.12 Whistleblower Policy/Integrity Policy

Notre Dame College is committed to maintaining a workplace where employees are free to raise good faith concerns regarding the College's business practices, specifically: (1) reporting suspected violations of the law on the part of the College, including but not limited to federal laws and regulations; (2) providing truthful information in connection with an inquiry or investigation by a court, agency, law enforcement, or other governmental body; and (3) identifying potential violations of Notre Dame College policy, specifically the policies contained in the employee handbook.

Administrative Responsibility – The College President has the ultimate responsibility for the administration of this whistleblower policy. Primary responsibility has been delegated the Human Resources Director, who shall be responsible for the administrative guidelines and procedures as well as the proper awareness and communication of this policy.

Reporting – An employee who wishes to report a suspected violation of law or Notre Dame College policy may do so confidentially by contacting the College's legal counsel or human resources director.

Notre Dame College expressly prohibits any form of retaliation, including harassment, intimidation, adverse employment actions, or any other form of retaliation, against employees who raise suspected violations of law, cooperate in inquiries or investigations, or identify potential violations of Notre Dame College policies. An employee who engages in retaliation will be subject to discipline, up to and including termination.

Reports of suspected violations of law or policy and reports of retaliation will be investigated promptly and in a manner intended to protect confidentiality, consistent with a full and fair investigation. The College's legal counsel or Human Resources Director will conduct the investigation. The investigating parties will notify the concerned individuals of their findings directly.

2.13 Confidential Nature of Business

College business is confidential and an internal matter, not a subject for outside conversation. The business that crosses an employee's desk or the information that becomes available through work on campus, no matter how interesting, should be kept from social conversations. For purposes of this policy, "Confidential Information" includes but is not limited to student files, personnel files, donor files, marketing strategies and related information, financial records, student and employee recruiting information, and pending projects and proposals. Any employee who discloses Confidential Information will be subject to disciplinary action, up to and including termination of employment and legal action, even if he or she does not actually benefit from the disclosed information.

2.14 Information about Our Students

Employees of the College have an additional obligation based on the services the College provides to its students. Students should know that we have an obligation to maintain the confidentiality of what they tell us and what we do for them. The duty of confidentiality has two major features: the duty to guard student confidences and secrets from disclosure; and the obligation not to use confidential information for our personal benefit or to allow someone else to do so.

2.15 Employee Classification, Type and Status

Employee classification and status for the purpose of determining benefits is defined as follows:

Classification

Faculty – Employees whose prime responsibility is teaching credit courses and consists of all ranked members of academic departments.

Staff - Employees whose prime responsibility is administrative or professional in nature and are not faculty members.

Educational Development Staff – Academically-oriented professionals who directly contribute to the educational mission of the College and may follow a 9- or 10-month schedule.

Safety & Security Staff – Employees who serve as Campus Police Officers.

Type

Full-time regular – Employees who are scheduled to work at least 35 hours per week and work at least 10 months per year.

Part-time regular – Employees who are scheduled to work less than 35 hours a week.

Temporary/Seasonal – Employees who are scheduled to work for specific periods of time or athletic seasons. These employees work on an "as needed" basis only.

Student – Any student who works for the College in the following capacities: work study, non-work study, Graduate Assistant, Resident Assistant or summer help.

Adjunct - Employees appointed to teach courses on a per-course basis for the College.

Status

Exempt – Positions classified as exempt under the Fair Labor Standards Act (FLSA) are not eligible for overtime earnings and do not have to record time worked.

Non-exempt – Positions classified as non-exempt under the FLSA are eligible for overtime earnings after 40 hours in a workweek and are required to record all time worked.

2.16 Transfers and Promotions

The College strives to promote the most capable and experienced employees based on their demonstrated ability to assume greater responsibility and perform essential job tasks. Consequently, in most cases, reasonable efforts will be made to fill vacant positions from within. However it may be deemed necessary to recruit and hire from outside the College to attract the most qualified individual for a particular job. Job openings may be posted on the College website and other areas accessible to all employees. Alternatively, in the College's sole discretion, outside recruiting sources may be used instead of an internal posting. To be eligible to apply for a posted vacancy, employees must meet the minimum hiring specifications for the position and be employees in good standing in regards to his/her overall work record at the College. An employee's past performance, attendance and disciplinary records, and other relevant records may be taken into account. Selections for promotions and transfers shall be made based on an individual's overall qualifications and ability to perform the essential duties required of the job, with or without reasonable accommodation.

2.17 Personnel Files

The College maintains personnel records for current and former employees in order to document employment related decisions, evaluate and assess policies, and comply with government record keeping and reporting requirements. Each personnel file includes information such as the employee's job application, resume, employment-related test results, training records, documentation of performance appraisals, salary information, and other employment records.

Personnel files are the property of the College, and access to the information they contain is restricted. Employees may inspect their own personnel records and request copies but may not remove original documents from the file. Such an inspection must be requested in writing to the Human Resources Office and will be scheduled at a mutually convenient time and place. Records deemed to contain sensitive or confidential College plans or information may be excluded from the inspection, and all inspections must be conducted in the presence of a designated member of the Human Resources Department. A reasonable charge may be made for any copies of records made for the employee.

Only supervisory and management employees who have an employment related need to review information about another employee may inspect the files of that employee. Such an inspection must be approved by the Human Resources Office and be conducted in the presence of a designated member of the Human Resources department.

Employees have a responsibility to notify the Human Resources Office of any personnel data changes. Employee mailing addresses, telephone numbers, marital status, emergency contact information and other such information should be accurate and current at all times.

2.18 Employment References

Employees are to refer all outside requests for personnel information concerning current and past employees to the Human Resources Office. The Human Resources Office generally only releases the employment dates and positions held by a current or former employee. Exceptions may be made in the College's sole discretion to cooperate with legal, safety, and medical officials who have a need to know specific employee information.

3.1 Code of Conduct

The successful operation and reputation of Notre Dame College is built upon the principles of fair dealing and ethical conduct of our employees. Our standards require careful observance of the spirit and letter of all applicable policies, procedures, laws and regulations, as well as a scrupulous regard for the highest standards of conduct and personal integrity.

Notre Dame College will comply with all applicable policies, procedures, laws and regulations, and expects its directors, officers, and employees to conduct themselves in accordance with the letter, spirit, and intent of all relevant laws and to refrain from any illegal, dishonest, or unethical conduct. Compliance with this policy of business ethics and conduct is the responsibility of every Notre Dame College employee.

To ensure orderly operations and provide the best possible work environment, Notre Dame College expects employees to follow rules of conduct that will protect the interests and safety of all employees and the organization.

It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. The following are examples of infractions of rules of conduct that may result in disciplinary action, up to and including termination of employment:

- Theft or inappropriate removal or possession of property
- Falsification of timekeeping records
- Working under the influence of alcohol or illegal drugs
- Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating college-owned vehicles or equipment
- Fighting, threatening violence, or causing harm to others in the workplace
- Behavior that prevents others from doing their work
- Unwillingness or inability to work in harmony with others
- Negligence or improper conduct leading to damage of college-, student-, or employee-owned property
- Insubordination or other disrespectful conduct
- Violation of safety or health rules
- Smoking in prohibited areas
- Sexual or other unlawful or unwelcome harassment
- Discrimination and/or bullying in violation of College policy
- Possession of dangerous or unauthorized materials, such as explosives or firearms, in the workplace
- Excessive absenteeism or any absence without notice
- Unauthorized absence from work station during the workday
- Unauthorized use of telephones, e-mail system, or other college-owned equipment
- Unauthorized disclosure of confidential information
- Use of Notre Dame College supplies, equipment, property, or services to carry out private business ventures
- Violation of personnel policies
- Making vicious or malicious statements concerning the company or other employees
- Unsatisfactory performance or conduct which interferes with the performance of others
- Violation of local, state, or federal laws while on College property or while working as an employee of the College
- Any willful behavior that results in the destruction of College property or brings injury to another employee

Employment of non-faculty employees with Notre Dame College is at the mutual consent of Notre Dame College and the employee, and either party may terminate that relationship at any time, with or without cause, and with or without advance notice.

3.2 Use of Technology at the College

The Notre Dame College Acceptable Use Policy (AUP) promotes the efficient, ethical, and lawful use of Notre Dame College's information technology resources. The College's computing systems, networks, and associated facilities are intended to support the College's mission and to enhance the educational environment. Any use of these resources deemed inconsistent with the mission and purpose of the College will be considered a violation of this policy.

Scope This policy applies to anyone who uses the College's information technology (IT) resources. The resources covered by this policy include, but are not limited to: computer hardware and software, data networks, and electronically stored data. Use of these resources includes access from off campus and on campus, as well as access from privately owned PCs and laptops.

Rights and Responsibilities Employees and students may use College-owned IT resources for instructional, research, or administrative purposes. Access to and use of the Notre Dame College IT resources and the Internet shall comply with federal laws, the laws of the state of Ohio, and the rules and regulations of the College. Misuse of these resources may result in criminal charges. By using Notre Dame College's IT resources, all users agree to the rules, regulations, and guidelines contained in this Acceptable Use Policy. Computers and networks provide access to resources on- and off-campus, as well as the ability to communicate with other users worldwide. Such open access is a revocable privilege and requires that individual users act responsibly. This AUP is intended to supplement College Policy and does not release users from compliance with any existing policies that address ethical issues such as harassment, academic dishonesty, and plagiarism. The College's computers and networks are shared resources, for use by all employees and students. Any activity that inhibits or interferes with the use of these resources by others is not permitted. The College will ensure reasonable use by monitoring access logs, traffic data, and network utilization. Users are responsible for all activities to and from their network accounts. Users must take every precaution to protect logins and passwords. Under no circumstances should a user allow someone else to share a network or e-mail account. Users should not assume or expect any right of privacy with respect to the College's IT resources. Although the College does not seek to monitor the communication of its employees or students, system administrators may access or examine files or accounts that are suspected of unauthorized use or misuse, that have been corrupted or damaged, or that may threaten the integrity of the College's computer systems. **In addition, files, e-mail, access logs, and any other electronic records may be subject to search under court order.**

Prohibited Use of Information Technology Resources It is a violation of this policy to:

- 1) Intentionally and without authorization, access, modify damage, destroy, copy, disclose, or take possession of all or part of any computer, computer system, network, software, data file, program, or database. This includes:
 - a. Gaining access by willfully exceeding the limits of authorization
 - b. Attempting (even if unsuccessful) to gain unauthorized access through fraudulent means
 - c. Gaining access by using another person's name, password, access codes, or personal identification
 - d. Attempting (even if unsuccessful) to gain unauthorized access by circumventing system security, uncovering security loopholes, or guessing passwords/access codes
- 2) Giving or publishing a password, identifying code, personal identification number or other confidential information about a computer, computer system, network or e-mail account, or database

- 3) Installing any software on computer systems in the computer labs, unless authorized by a member of the lab staff or a faculty member
- 4) Transferring copyrighted materials to or from any system, or via the College network, without the express consent of the owner of the copyrighted material. (See section entitled "File Sharing and Copyright Infringement.")
- 5) Providing outside access to College-developed or commercially-obtained network resources
- 6) Using any College IT resource for commercial, political, or illegal purposes, or for harassment of any kind
- 7) Displaying obscene, lewd, or otherwise offensive images or text
- 8) Intentionally or negligently using computing resources in such a manner as to cause congestion and performance degradation of the network

Provisions for Private Computers Connected to the College Network The following apply to anyone connecting a private computer to the College network via the College Housing network, wireless LAN connection, dial-up network connection, or a regular network connection in an office.

- 1) The owner of the computer is responsible for the behavior of all users on the computer, and all network traffic to and from the computer, whether or not the owner knowingly generates the traffic.
- 2) A private computer connected to the network may not be used to provide network access for anyone who is not authorized to use the College systems. The private computer may not be used as a router or bridge between the College network and external networks, such as those of an Internet Service Provider.
- 3) Should the IT staff have any reason to believe that a private computer connected to the College network is using the resources inappropriately, network traffic to and from that computer will be monitored. If justified, the system will be disconnected from the network, and action taken with the appropriate authorities.
- 4) Any residential student, with an authorized network account, may use the in-room connection for scholarly purposes, for official College business, and for personal use, so long as the usage:
 - a. Does not violate any law or this policy
 - b. Does not involve extraordinarily high utilization of College resources or substantially interfere with the performance of the College network
 - c. Does not result in commercial gain or profit.
- 5) Users are responsible for the security and integrity of their systems. In cases where a computer is "hacked into," it is recommended that the system be either shut down or be removed from the campus network as soon as possible to localize any potential damage and to stop the attack from spreading. If you suspect electronic intrusion or hacking of your system and would like assistance, contact IT (x5227) immediately.
- 6) The following types of servers should never be connected to the College network: DNS, DHCP, and WINS, or any other server that manages network addresses.

Electronic Mail The College e-mail system is not a private secure communications medium. As such, e-mail users cannot expect privacy. By using the College e-mail system, each user acknowledges: 1) The use of electronic mail is a privilege not a right. E-mail is for College communication, research, or campus business. Transmitting certain types of communications is expressly forbidden. This includes messages containing chain letters, pyramids, urban legends, and alarming hoaxes; vulgar, obscene or sexually explicit language; threatening or offensive content; derogatory, defamatory, sexual, or other harassment; and discriminatory communication of any kind. As with other information technology resources, the use of e-mail for commercial or political purposes is strictly prohibited. 2) Under the Electronic Communications Privacy Act, tampering with e-mail, interfering with the delivery of e-mail, and using e-mail for criminal purposes may be felony offenses, requiring the disclosure of messages to law enforcement or other third parties without notification. 3) E-mail messages should be transmitted only to those individuals who have a need to receive them. Distribution lists should be constructed and used carefully. E-mail distribution lists should be kept current and updated regularly. Inappropriate mass mailing is forbidden. This includes multiple mailings to newsgroups, mailing lists, or individuals (e.g. "spamming," "flooding," or "bombing"). 4) All users of the College e-mail system waive any right to privacy in e-mail messages and consent to the access and disclosure of e-mail messages by authorized College personnel. Accordingly, the College reserves the right to access and disclose the contents of e-mail messages on a need-to-know basis. Users should recognize that under some circumstances, as a result of investigations, subpoenas, or lawsuits, the College might be required by law to disclose the contents of e-mail communications.

Printing College printers are to be used for Notre Dame College class work or business. Limited personal use of College printers is allowed however printing large quantities such as materials for courses taught at other institutions is prohibited unless approved in advance by College administration.

Laptops It is the faculty/staff member's responsibility to take appropriate precautions to prevent damage to or loss/theft of your laptop computer. The faculty/staff member or department may be responsible for certain costs to repair or replace the computer if the damage or loss is due to negligence or intentional misconduct.

If the laptop is lost or stolen it must be reported to Information Technology immediately. For theft or loss off campus, it should also be reported to local police as well. The police report should include the serial number for the lost computer. A copy of the police report must be sent to IT within 48 hours.

File Sharing and Copyright Infringement Federal copyright law applies to all forms of information, including electronic communications. Members of the College community should be aware that copyright infringement includes the unauthorized copying, displaying, and/or distributing of copyrighted material. All such works, including those available electronically, should be considered protected by copyright law unless specifically stated otherwise. Notre Dame College complies with all provisions of the Digital Millennium Copyright Act (DMCA). Any use of the Notre Dame College network, e-mail system, or Web site to transfer copyrighted material including, but not limited to, software, text, images, audio, and video is strictly prohibited. Therefore, the use of popular file sharing programs such as KaZaA, Morpheus, iMesh, Limewire etc. is, in most cases, a violation of College policy and federal law.

Reporting Violations of IT Acceptable Use Regulations Violations of this Acceptable Use Policy should be reported immediately to the Chief Technology Officer, extension 5227. The College will make every effort to maintain confidentiality to the extent possible consistent with other obligations.

Disciplinary Action Violations of these regulations will result in the appropriate disciplinary action, which may include loss of computing privileges, suspension, termination, or expulsion from the College, and legal action.

3.3 Attendance & Punctuality

Punctuality and regular attendance at work is expected of everyone. Should any employee be unable to report to work, or should he/she know that he/she will be unavoidably late, notice should be given to the direct supervisor. If the employee will be absent, he/she must indicate the reason for the absence.

In the event that an employee is absent for two (2) consecutive days without reporting as required, such person will be considered as having voluntarily terminated his/her employment. All employees are expected to be reliable in their attendance and are subject to disciplinary action, up to and including termination, for absenteeism or tardiness which is deemed improper or excessive by the College.

3.4 Violence & Weapons in the Workplace

The College is committed to maintaining a safe and healthy environment for all faculty, staff and students, and will not tolerate any form of violence or abusive behavior committed by or against any member of its community. All reports of violence or abusive behavior will be taken seriously by members of this campus community.

Violence and abusive behavior include any attempted, threatened, or actual conduct that endangers or is likely to endanger the health or safety of a campus community member or visitor, or any threatening statement, harassment, or behavior that gives a campus community member or visitor reasonable cause to believe that his or her health or safety is at risk. Employees who engage in such actions or threats of violence or abusive behavior will be subject to the appropriate discipline up to and including termination.

Examples of violent and abusive behavior violating this policy include but are not limited to the following:

- Slapping, punching or otherwise physically attacking a person.
- A direct or implied threat of harm or hostile behavior that creates a reasonable fear of injury to another person or unreasonably subjects another individual to emotional distress.
- Brandishing a weapon or an object which appears to be a weapon in a threatening manner.
- Intimidating, threatening, or directing abusive language toward another person.
- Stalking.
- Intentionally damaging College property or the property of a member of the Notre Dame College community or a visitor.
- Committing acts motivated by, or related to racial or sexual harassment or domestic violence.

Discharging, carrying, or possessing firearms, including replicas and air guns or any weapons with which injury, death, or destruction may be inflicted, is prohibited on property owned or controlled by Notre Dame College.

3.5 Gifts

Employees should not solicit or accept for personal benefit directly or indirectly any gift, loan, or any item of substantial monetary value (greater than \$250) from any person or company that is seeking to conduct or currently conducting business with the College. Meals and accommodations of a reasonable and normal value provided to employees on College business may be accepted.

3.6 Smoke Free Workplace

Smoking is prohibited everywhere on campus. Cigarettes will not be sold, advertised for promotion or given as free samples on campus. This ban extends to all administrators, faculty, staff, students, visitors, contractors and sub-contractors on campus.

In accordance with the Smoke Free Workplace Act (Ohio, 2006), all smoking receptacles have been removed from the entryways of campus buildings. Appropriate signage is also posted throughout the College as a reminder to all member of the Notre Dame Community and guests of the College of this ban.

3.7 Social Networking

Social media blogs, wikis, social networks (e.g. Facebook, YouTube, Twitter, LinkedIn, etc.) are changing the way we communicate, interact, and do business with colleagues, students and the public.

Despite new social media tools and platforms emerging and changing all the time, its basic purpose remains the same and is similar to traditional forms of communication: to engage in dialogue, provide and exchange information, and build understanding. Social media's high speed, level of interactivity and global access to any information you publish merits particular consideration to the appropriate uses for these applications.

Notre Dame College recognizes the benefits of social media and welcomes its use – however, we also acknowledge that certain risks are associated with these new channels. Because the comments posted on social network sites are public and available worldwide, and because these activities could affect an employee's job performance, the job performance or reputation of others at the College, and/or the College's academic and business interests, the following policies must be followed when engaging in social networking:

1. The use of College internet resources for active participation in a blog or other social media is prohibited. Similarly, active participation in a blog or other social media should not occur during an employee's worktime.
2. The College does not control the blogs or other social media created by its employees. If your blog makes reference to the College, you should notify readers of the blog that the views, opinions, ideas and information presented on the blog belong to you personally and are not in any way attributable to the College.
3. As with any other use of internet resources, your participation in a blog or other social media must not disclose proprietary information or data, trade secrets, or other confidential non-public information of the College.
4. As with any other use of internet resources, your participation in a blog or other social media must not violate any College policy, including but not limited to any policy prohibiting unlawful harassment or otherwise regarding equal employment opportunity or the privacy rights of other employees of the College.

The best advice is to approach online worlds in the same way we do the physical one – by using sound judgment and common sense, by adhering to the College's values, and by following the Code of Conduct and all other policies.

3.8 Solicitation Policy

No off-campus individual or organization may distribute literature, advertise, solicit customers, recruit volunteers, employees or members, seek donations, or make sales on campus without the express permission of College Administration. **This policy does not apply to individuals or organizations who are invited to campus by authorized College administrative personnel as part of an approved College activity or event.**

3.9 Visitors and Pets in the Workplace

The College values family life and has worked to develop employment policies and benefits that are supportive of families. While the College seeks to focus on providing an environment open to work and family issues, it also believes that the activities of the workplace should be aimed at accomplishing the work of the College.

While there may be College-sponsored dogs on campus, it is generally discouraged for employees to bring their pets to work. The College reserves the right to require anyone who brings a dog onto College property to present documentation from a veterinarian that the animal is in good health and has appropriate shots and is in compliance with all applicable state and local health laws. If individuals choose to bring their dogs to campus grounds, courtesy and respect must be extended to colleagues, students and visitors in the area. Dog owners will be required to keep

dogs on a leash and should always consider safety, health and the possible fears others may have in the presence of animals. Dog owners are responsible for cleaning up waste left by their dog, while on campus. Failure to clean up the waste will result in the dog no longer being allowed on campus.

The College does not permit the frequent or extended presence of minor children that may require direct supervision in the workplace in lieu of other childcare arrangements. The College fully recognizes that circumstances may arise that could necessitate an exception to this policy. When such situations arise the employee and his/her supervisor will develop a plan that will accommodate the situation with as little disruption as possible.

This policy is not intended to prohibit or prevent the presence of family members and friends on campus to attend classes, cultural events or sporting events or other authorized use of campus facilities.

3.10 Media Relations

The College President and the Chief Communications Officer have primary responsibility for releasing information to the news media. Major incidents and emergencies may draw interest from local or national media. It is of paramount importance that only accurate, factual information is released. Incorrect or incomplete information could be detrimental to the College, its employees, and students. Refer all news media inquiries to the Chief Communications Officer at 216.373.5252. If College Marketing cannot be contacted, call Police/Security at 373-5288/5212.

3.11 Attendance at Academic Functions and General Meetings

Attendance at general meetings is expected of all full-time employees of the College. Permission to be absent in exceptional cases should be secured from the employee's vice president. All other employees of the College are invited and encouraged to attend the general meetings.

Attendance at academic functions such as baccalaureate, graduation and convocation may be required of certain employees. Notification of such required attendance will be given in a timely fashion. Should academic attire be necessary, the employee is responsible for providing his/her own attire.

3.12 Expectation of Privacy

The College assumes no liability whatsoever for the damage, loss or theft caused by third parties to the personal property of staff members.

All storage facilities, office and workspaces, including desks and lockers, are the property of Notre Dame College; and the College reserves the right to have access to these areas and to such property at any time, without advance notice to any employee. Therefore, employees should not expect that such property would be treated as private and personal to the employee. Likewise, electronic mail and voicemail are also College property. The College reserves the right to inspect, monitor and have access to College computers, electronic mail, voicemail messages and Internet communications.

3.13 Portable Devices

The use of portable devices, such as cell phones, PDAs, pagers, blackberries and laptops, can enhance individual productivity and responsiveness. You are expected, however, to exercise good judgment whenever using these devices. Specifically, you must adhere to all federal, state and local laws and regulations regarding the use of such devices, including all laws restricting the use of cell phones while driving. Additionally, you should use these devices only when the use will not distract your attention in a manner that will endanger yourself or others.

3.14 Personal Appearance

Employees are expected to maintain high standards of personal cleanliness and to present a neat, professional appearance at all times. Employees should follow departmental guidelines in regard to professional dress standards.

The College is confident each employee will use his or her best judgment in following acceptable cleanliness and dress standards. Employees who choose to wear fragrances in the workplace are highly encouraged to be aware of the sensitivities or allergies of their coworkers. Individual departments have the authority to define appropriate professional dress standards for their employees. Some positions may require employees to wear special clothing or uniforms.

3.15 Progressive Discipline

It is in Notre Dame College's own best interest to ensure the fair treatment of all staff members and to make certain that disciplinary actions are prompt, uniform, and impartial. The major purpose of any disciplinary action is to correct a problem, prevent recurrence, and prepare staff members for satisfactory service in the future. Although employment with the College is based on mutual consent and both the staff member and Notre Dame College have the right to terminate employment at will, with or without cause or advance notice, Notre Dame College may use progressive discipline at its discretion.

Disciplinary action may call for any of four steps — verbal warning, written warning(s), suspension with or without pay, or termination of employment — depending on the severity of the problem and the number of occurrences. There may be circumstances when one or all steps are bypassed.

Progressive discipline means that, with respect to most disciplinary problems, these steps will normally be followed: a first offense may call for a verbal warning; a next offense may be followed by a written warning; another offense may lead to a suspension; and, still another offense may then lead to termination of employment.

Normally, written warnings will be accompanied by an action plan intended to address the issues at hand. The action plan will detail what the issues are and what steps will be taken to deal with the issues and a follow-up or evaluation plan of these action steps.

Notre Dame College recognizes that there are certain types of problems, accumulation of offenses or collection of actions that are serious enough to justify either a suspension, or, in extreme situations, termination of employment, without going through the usual progressive discipline steps.

While it is impossible to list every type of behavior or problem that may occur, the Code of Conduct policy includes examples of problems that may trigger progressive discipline. By using progressive discipline, we hope that most problems can be corrected at an early stage, benefiting both the staff member and Notre Dame College.

3.16 Open Door Policy

If any area of your work is causing you concern, you have the responsibility to address your concern with a manager. Whether you have a problem, a complaint, a suggestion, or an observation, your managers want to hear from you. By listening to you, the College is able to improve, to address complaints, and to foster employee understanding of the rationale for practices, processes, and decisions.

Most problems can and should be solved in discussion with your immediate supervisor; this is encouraged as your first effort to solve a problem. You may also discuss your issues and concerns with the next level of management and/or Human Resources staff members. No matter how you approach your problem, complaint, or suggestion, you will find managers at all levels of the organization willing to listen and to help bring about a solution or a clarification.

3.17 Voluntary Termination of Employment

If an employee decides to terminate employment with the College, written notification should be given to the direct supervisor and to the Human Resources office at least two weeks before the final day of work. Failure to give such notice will result in the loss of accrued but unused vacation pay. If an employee does not report to work and does

not contact his or her supervisor for two consecutive work days, it is assumed that he or she has voluntarily terminated his or her employment at Notre Dame College.

3.18 Involuntary Termination of Employment

An employee is subject to discharge if his or her performance or conduct is not satisfactory and/or violates any of the policies and procedures of the College. Ordinarily, the determination to terminate is made by the direct supervisor in consultation with department head, vice president and the Director of Human Resources. In addition to the foregoing, Notre Dame College is an at-will employer, meaning that any staff member may terminate his or her employment at any time, with or without cause, and Notre Dame College reserves the same right.

3.19 Separation Checklist & Exit Interview

Employees who leave the College should arrange to meet with the Human Resources office before the last day of work to review the separation checklist and conduct an exit interview. In this meeting information is shared regarding health insurance coverage, last paychecks, collection of College property and an opportunity to share opinions on employment at Notre Dame College. The reasonable value of any College property not returned by the employee will be deducted from the employee's last paycheck.

4.1 Payday

All employees are paid on the last working day of the month. A schedule of pay dates will be furnished by the College at the beginning of each fiscal year. As required by law, the College withholds federal, state and local income taxes from an employee's earnings. Tax deduction amounts are determined by the exemption scheduled filed by each employee on the W-4 form. The College will only make other payroll deductions with prior employee authorization, such as for health/life insurance premiums, donations to the Annual Fund, etc. All employees in Ohio are required to utilize direct deposit.

4.2 Payroll Timekeeping

Federal and state laws require the College to keep an accurate record of time worked in order to calculate employee pay and benefits. Non-exempt employees must accurately record the time they begin and end their work, as well as the beginning and ending time of each meal period. They must also record the beginning and ending time of any split shift or departure from work for personal reasons.

It is the employee's responsibility to sign his or her time record to certify the accuracy of all time recorded. The appropriate supervisor will review and then initial the time record before submitting it for payroll processing. In the event of an error in reporting time, the individual employee must immediately report the problem to Human Resources. It is the supervisor's responsibility to ensure that all timesheets are turned into Human Resources by the scheduled date for payroll.

Altering, falsifying, tampering with time records or recording time on another employee's time record may result in disciplinary action, up to and including termination of employment.

4.3 Overtime

In accordance with the Federal Labor Standards Act (FLSA) and state wage and hour restrictions, nonexempt employees are eligible to receive overtime pay at a rate of one and one-half times their regular pay for time worked in excess of 40 hours per workweek. Exempt employees are not eligible for overtime premium pay; they are expected to work as many hours as required to perform the duties of the position.

Before overtime is worked, the non-exempt employee must have approval from his or her supervisor. Overtime is considered a condition of employment, and refusal to accept it when reasonable notice has been given is cause for

discipline, up to and including termination. At the supervisor's discretion, an employee's work schedule may be adjusted during a workweek to maintain a thirty-five hour workweek.

Approved paid absences, including but not limited to sick leave, vacation leave, holiday leave, FMLA, military leave, jury and witness duty, funeral/bereavement leave, and voting time off, are not counted as time worked for the purposes of computing overtime.

4.4 Compensation

Salaries are reviewed on a regular basis by Human Resources and the President's Office. Pay increases are part of the budgeting process and are discretionary. Any adjustments to salary will be made on the first of the month. If the adjustment falls on the 1st – 15th of the month it will be effective as of the 1st of that month and if the adjustment falls on the 16th – end of the month it will be effective the 1st of the following month.

4.5 Salary Basis Policy

It is the policy of the College to fully comply with the Fair Labor Standards Act. In keeping with this commitment, exempt employees will be paid their full salary for any workweek in which they perform work, subject only to deductions that are permitted by applicable federal, state or local law.

The College does not allow or condone improper deductions to be taken from an employee's pay. If you discover any mistake in connection with your pay, or your pay does not accurately reflect all hours worked, please report it to your supervisor or the HR Department immediately. The college will investigate, and if an improper deduction was made, the employee will be reimbursed.

4.6 Work Schedules

The normal work week for office personnel is thirty-five hours (35) per week from 8:30 a.m. to 4:30 p.m., Monday through Friday, with an unpaid one hour lunch period. Hours may vary slightly in specific departments. The normal work week for maintenance staff is thirty-five hours (35) per week from 7:30 a.m. to 3:30 p.m. with a one hour unpaid lunch period. Breaks during the day are paid but should be limited in number and duration.

Employees may be asked to adjust regular working hours to meet the needs of the students. In these cases, the schedule can be adjusted so that employees are not required to work more than 35 hours a week during the pay period. Telecommuting and flexible work schedules may be possible depending on the department and with approval of the supervisor.

4.7 Emergency Closure/Inclement Weather

The President of the College, in consultation with the executive officers, has the final responsibility for the closing of the College. A general announcement will be made through the local media, the College website and the College email system with details pertaining to the duration of the closing and what services will be retained.

Campus security will be expected to report to duty as usual. Salaried employees will be paid during the closing. Part-time employees will not be paid for snow days or any other days the College is closed. The College recognizes that its employees come from a wide geographic area and that road conditions vary greatly during times of inclement weather. Common sense and good judgment should act as the guide for employees as to whether they can safely get to work. It is understandable that employees may be late if the weather conditions in their area are particularly severe. An employee who does not come to work when the College is open must use vacation, sick or personal time for that day.

4.8 Performance Management

Ongoing performance-based communication is vital to Notre Dame College's success. Performance appraisals will be performed annually. The performance appraisal provides a means for discussing, planning and reviewing the performance of each employee. Regular performance appraisals help employees clearly define and understand their responsibilities, provide criteria by which their performance will be evaluated and suggest ways in which they can improve performance.

5.1 Holidays

Traditionally, full-time regular employees at Notre Dame College are given paid time off for the following fourteen (14) declared holidays.

Christmas (3 days)	New Year's (3 days)
Good Friday	Day before Thanksgiving
Thanksgiving	Day after Thanksgiving
Labor Day	Memorial Day
Independence Day	Martin Luther King Jr. Day

When special circumstances arise, a full-time regular employee may be asked to work on a day declared a holiday. When this occurs the supervisor will agree on compensation in one of two ways:

1. The employee can take an "in lieu of" day which means taking another day off and recording it as the holiday.
2. The employee can be paid for the holiday PLUS any hours worked on the holiday which can be considered double time.

There are no paid holidays for part-time, seasonal, temporary or student employees.

Part-Time Police Officers

When part-time campus police officers work on any of the following holidays, they will be paid overtime at a rate of time and one-half, regardless of how many hours they have worked in a week:

Christmas Day	New Years Day
Easter Sunday	Memorial Day
Independence Day	Labor Day
Thanksgiving Day	

5.2 Vacation Pay

Vacation Policy Statement

Notre Dame College recognizes that employees work hard to contribute to the success of the College's mission. Therefore, the College has adopted this Vacation Pay Policy that provides eligible employees with flexibility to take vacation to help balance their career, personal and family life, while also meeting the mission and business needs of the College.

Purpose of the Policy

- Provides guidance on a consistent application of the Vacation Pay Policy.
- Provides the employee with individual responsibility to manage vacation time.
- Establishes guidelines for approving vacation time that does not negatively impact or disrupts the business needs of the College.

Eligibility & Scope

All full-time regular employees become eligible for and may take paid vacation time after 60 days of employment. Part-time staff are not eligible for paid vacation.

Vacation pay must be taken in full day increments.

Because the College must maintain adequate staffing at all times, vacation requests must be submitted to the

supervisor for approval, preferably two weeks before the time off. Supervisors should take the following factors into consideration when deciding whether to approve or deny a request for vacation: (1) the amount of vacation already taken by the employee, if any, within the last 12 months; (2) the business needs of the department and the availability of other staff to cover critical tasks during the employee's absence; (3) whether the employee's absence at that time would cause an undue hardship for the College; and (4) any other relevant factors. If vacation time is approved, it is the supervisor's responsibility to complete and submit a Request for Vacation Time form to the Payroll Office prior to the vacation date for the record keeping.

When vacation scheduling conflicts occur, resolution will be determined by department management. Any vacation time taken without proper approval will be considered time off without pay and may be subject to disciplinary action. Vacation pay may not be used to compensate for tardiness, unexcused absences, sick or personal time or to provide pay for any other time off that would otherwise be unpaid, e.g., absences or extended leave for sick or personal reasons after exhaustion of time available under the Sick/Personal Time Off Policy. Management reserves the right to revoke approved vacation time due to any unforeseen circumstances that could negatively impact the business needs of the College.

Upon termination of employment, an employee will be paid for vacation time that was accrued but unused prior to the effective date of this Policy if the employee: (i) voluntarily quits his/her position and provides at least two weeks advance notice to the College; or (ii) is terminated by the College without cause. Employees who leave under any other circumstances, including those that are terminated "for cause," are not entitled to payment for accrued but unused vacation or any carryover vacation time.

Beginning on the effective date of this Policy, employees do not accrue vacation pay. Instead, vacation pay is made available to eligible employees on an as requested and approved basis. As such, upon termination of employment for any reason, there is no vacation payout, other than as noted above for vacation time that was accrued but unused prior to the effective date of this Policy. Updated 1/1/2021

5.3 Sick/Personal Time Off

Full-time regular employees accrue one (1) day off per month, up to 90 days, for illness, emergency or important personal business such as additional bereavement days. Sick and personal time off is not intended to be used for additional vacation time. Upon termination of employment the College will not reimburse employees for any accrued and not taken personal time for any reason. If an employee has used more than his/her earned personal days upon termination, the extra amount will be deducted from the final paycheck.

Employees can take personal time off in whole or half days only. Except in cases of illness or injury, personal time off should be approved in advance by the employee's immediate supervisor. Completed forms are then to be forwarded to the Payroll Office for record keeping. Employees who are unable to report to work due to illness or injury must notify their immediate supervisor before the scheduled start of the workday. The College reserves the right to require a physician's statement for any absences in excess of three (3) consecutive working days for illness as well as a return to work/fit-for duty note.

5.4 Employee Benefits

The College offers a comprehensive program of benefits and services to help meet your needs throughout the various stages of your life. Full details of each benefit are available in documents issued by the College or its insurance carriers. Please contact Human Resources for details and eligibility for each program.

Each plan year you will have an opportunity to enroll in or change your selection of benefit options. However, federal regulations impose restrictions on enrollment and limitations on making subsequent changes. These opportunities and restrictions are explained in the materials available from Human Resources. Your rights and obligations, and those of the College, are governed by the terms of each benefit plan and, in some cases, by contracts with insurance companies. The plans are based on current federal and state law and are regulated by those laws. Any changes that occur within the law or regulations may have an impact that would require

modification of the plans. Benefits may be modified, amended or terminated from time to time by the College at its discretion or as required by applicable law, and the College reserves the right to terminate or modify the benefits as may be necessary or appropriate, with or without prior notice.

Many of the College's benefits are governed by Internal Revenue Code. As a result, there are rules that govern when you may change a benefit election throughout the year. Generally, you must have a family status change or life event. Examples include marriage or divorce, birth of a child, and a significant change in spouse coverage. You must notify Human Resources within 31 days of the life event; otherwise the only opportunity you will have to make a change in coverage is during the annual open enrollment period. To the extent of any conflict between the terms of this Employee Handbook and the Benefit Plan Documents, the terms of the Benefit Plan Documents will control.

5.5 Workers Compensation/Accidents at Work

All employees are covered by workers' compensation insurance, which compensates an employee for lost time, medical expenses, and loss of life or dismemberment from an injury arising out of or in the course of work. Employees must report any accident or injury immediately to his/her supervisor and the Human Resources Department so that the necessary paperwork may be completed.

5.6 Family Medical Leave

Notre Dame College will comply with the Family and Medical Leave Act, including but not limited to all implementing Regulations as revised effective January 16, 2009.

The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

If you have any questions, concerns, or disputes with this policy, you should contact the Human Resources Department.

A. General Provisions

Under this policy, Notre Dame College will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness) during a 12-month period to eligible employees. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

B. Eligibility

To qualify to take family or medical leave under this policy, the employee must meet all of the following conditions:

- 1) The employee must have worked for the College for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years. On the other hand, separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service obligations. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on leave during the week.
- 2) The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence. Consistent with applicable law, time spent while on paid or unpaid leave will not count as "hours worked" for purposes of this determination.
- 3) The employee must work in a worksite where 50 or more employees are employed by the College within 75 miles of that worksite. The distance will be calculated by using available transportation by the most direct route.

C. Type of Leave Covered

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

- 1) *The birth of a child and in order to care for that child.*
- 2) *The placement of a child for adoption or foster care and to care for the newly placed child.*
- 3) *To care for a spouse, child or parent with a serious health condition (described below).*
- 4) *The serious health condition (described below) of the employee.*

An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

A “serious health condition” is generally defined as a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition that requires continuing care by a licensed health care provider.

In certain circumstances, this policy also covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences.

Employees with questions about what illnesses are covered under this FMLA policy are encouraged to consult with the Human Resources Coordinator.

If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the College may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

- 5) *Qualifying exigency leave for families of members of the National Guard and Reserves when the covered military member is on active duty or called to active duty in support of a contingency operation.*

An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to active military duty or who is already on active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following: 1) short-notice deployment, 2) military events and activities, 3) child care and school activities, 4) financial and legal arrangements, 5) counseling, 6) rest and recuperation, 7) post-deployment activities and 8) additional activities that arise out of active duty, provided that the College and employee agree, including agreement on timing and duration of the leave.

The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave except that the person does not have to be a minor.) This type of leave is counted toward the employee's 12-week maximum of FMLA leave in a 12-month period.

- 6) *Military caregiver leave (also known as covered service member leave) to care for an ill or injured service member.* This leave may extend to up to 26 weeks in a single 12-month period for an employee to care for a spouse, son, daughter, parent or next of kin covered service member with a serious illness or injury incurred in the line of duty on active duty. “Next of kin” is defined as the closest blood relative of the injured or recovering service member.

D. Amount of Leave

An eligible employee can take up to 12 weeks for the FMLA circumstances (1) through (5) above under this policy during any 12-month period. The College will measure the 12-month period as a rolling 12-month period.

An eligible employee can take up to 26 weeks for the FMLA circumstance (6) above (military caregiver leave) during a single 12-month period. For military caregiver leave, the College will measure the 12-month period as a rolling 12-month period. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.

If a husband and wife both work for the College and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave in any rolling 12-month period. If a husband and wife both work for the College and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of leave in any rolling 12-month period.

E. Employee Status and Benefits During Leave

While an employee is on leave, the College will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the College will require the employee to reimburse the College the amount it paid for the employee's health insurance premium during the leave period.

Under current College policy, the employee pays a portion of the health care premium. While on paid leave, the College will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Human Resources Department by the first day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave. The College will provide 15 days' notification prior to the employee's loss of coverage.

If the employee contributes to a life insurance or disability plan, the College will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums. If the employee does not continue these payments, the College may discontinue coverage during the leave.

F. Employee Status After Leave

An employee who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from the health care provider. This requirement will be included in the College's initial response to the FMLA request. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The College reserves the right to exempt certain key employees from this requirement and not return them to the same or similar position.

G. Use of Paid and Unpaid Leave

An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all paid personal or sick leave prior to being eligible for unpaid leave. Sick leave may be run concurrently with FMLA leave if the reason for the FMLA leave is covered by the College's sick leave policy.

Disability leave for an employee's own serious health condition, including workers' compensation leave (to the extent that it qualifies) and maternity leave, will be designated as FMLA leave and will run concurrently with FMLA. The employee will be required to substitute accrued (or earned) paid leave as appropriate before being eligible for unpaid leave for what remains of the 12-week entitlement. An employee who is taking leave for the adoption or foster care of a child, and/or for military FMLA leave for a qualifying exigency or military caregiver leave, must use all paid vacation, personal or family leave prior to being eligible for unpaid leave.

H. Intermittent Leave or a Reduced Work Schedule

The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced-hour schedule. In all

cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member over a 12-month period).

The College may temporarily transfer an employee to an available alternative position consistent with applicable regulatory requirements, if the alternative position would better accommodate the intermittent or reduced schedule, and when leave for the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

For the birth, adoption or foster care of a child, the College and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced-hour schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.

I. Certification for the Employee's Serious Health Condition

The College will require certification for the employee's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification will be provided using the DOL Certification of Health Care Provider for Employee's Serious Health Condition (<http://www.dol.gov/esa/whd/forms/WH-380-E.pdf>).

The College reserves the right to ask for a second opinion if it has reason to doubt the certification. The College will pay the costs associated with a certification from a second doctor, whom the College will select. The College reserves the right to deny FMLA leave to any employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the College will require the opinion of a third doctor. The College and the employee will mutually select the third doctor, and the College will pay the costs associated with the third examination. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

J. Certification for the Family Member's Serious Health Condition

The College will also require certification for the family member's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification will be provided using the DOL Certification of Health Care Provider for Family Member's Serious Health Condition (<http://www.dol.gov/esa/whd/forms/WH-380-F.pdf>).

The College reserves the right to ask for a second opinion if it has reason to doubt the certification. The College will pay the costs associated with a certification from a second doctor, who the College will select. The College reserves the right to deny FMLA leave to any employee whose family member refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the College will require the opinion of a third doctor. The College and the employee will mutually select the third doctor, and the company will pay the costs associated with the third examination. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

K. Certification of Qualifying Exigency for Military Family Leave

The College will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification of Qualifying Exigency for Military Family Leave (<http://www.dol.gov/esa/whd/forms/WH-384.pdf>).

L. Certification for Serious Injury or Illness of Covered Service member for Military Family Leave

The College will require certification for the serious injury or illness of the covered service member. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification for Serious Injury or Illness of Covered Service member (<http://www.dol.gov/esa/whd/forms/WH-385.pdf>).

M. Recertification

Consistent with applicable FMLA regulations, the College reserves the right to request recertification for the serious health condition of the employee or the employee's family member when circumstances have changed significantly, or if the College receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. In certain cases, the College may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.

N. Procedure for Requesting FMLA Leave

All employees requesting FMLA leave must provide verbal or written notice of the need for the leave to the HR manager. Within five business days after the employee has provided this notice, the HR manager will complete and provide the employee with the DOL Notice of Eligibility and Rights (<http://www.dol.gov/esa/whd/fmla/finalrule/WH381.pdf>).

When the need for the leave is foreseeable, the employee must provide the College with at least 30 days' notice. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day. When the need for FMLA leave is not foreseeable, the employee must comply with the College's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.

O. Designation of FMLA Leave

Within five business days after the employee has submitted the appropriate certification form, the Human Resources Director will complete and provide the employee with a written response to the employee's request for FMLA leave using the DOL Designation Notice (<http://www.dol.gov/esa/whd/forms/WH-382.pdf>).

P. Intent to Return to Work from FMLA Leave

The College reserves the right to require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

5.7 Military Leave/USERRA

Regular full-time and part-time employees who are in the U.S. Armed Services, National Guard or Reserves will be granted a military leave of absence to attend scheduled drills or training or if called to active duty. Any military leaves of absence will be unpaid. The employee may use earned vacation time if the employee wishes. Subject to the terms, conditions and limitations of the applicable plans for which employees are otherwise eligible, employees can elect to continue their health insurance benefits for up to twenty-four (24) months while on military leave, or can elect to reinstate their health insurance benefits upon their return from a military leave of absence.

If the employee is on two week active duty training assignments or inactive duty training drills, all benefits and job status will resume as normal if the employee reports back to work on the next regularly scheduled workday after release from training. If the employee is on a longer military leave, he/she must apply for reemployment in

accordance with all applicable state and federal laws. Upon return from military leave, every reasonable effort will be made to return the employee to his/her previous position or a comparable one. The employee will be treated as though he/she was continuously employed for purposes of determining benefits based on length of service

5.8 Short Term Disability

Full-time employees are eligible for short-term disability coverage the first of the month coinciding with or following date of hire. Short-term disability will pay 75% of your base salary up to 40 working days. Before you are eligible for this three-quarters salary benefit. If a paid holiday occurs during the time you are on short-term disability, you will receive only three-quarters compensation for that holiday. This College paid short-term disability runs concurrent with FMLA.

5.9 Long Term Disability

Full-time employees are eligible for long-term disability coverage the first of the month coinciding with or following date of hire. Notre Dame College pays entire premium, 6 month elimination period, pays up to 60% of salary to age 65, conversion available upon termination.

5.10 Bereavement Leave

A leave of absence with pay up to, but not exceeding, three (3) working days may be granted to all full-time regular employees who request such leave when a death occurs in the employee's immediate family. The immediate family includes spouse, children, parents, brothers, sisters, mother-in-law, father-in-law, brothers-in-law, sisters-in-law, grandparents and grandparents-in-law. The College may permit vacation days, personal days or leave without pay to be used to supplement paid days if necessary upon request. If the death of an immediate family member occurs while an employee is on vacation or holiday, this benefit is not added to the vacation or holiday nor are compensating days allowed at some other time.

Requests for time off to attend the funeral of persons outside the employee's immediate family must be approved by the supervisor. If granted, the time may be taken unpaid or charged against accrued personal or vacation time.

5.11 Jury Duty

Any compensation collected by an employee serving on a jury is to be kept by the employee to help offset any out-of-pocket expenses incurred. Employees will receive regular pay while on jury duty. Supervisors are to be notified immediately if an employee is summoned to jury duty. A copy of the summons is to be provided to the Human Resources Office. If the employee is excused from jury duty or is released early, that employee is required to report to work.

5.12 Personal Leave of Absence

The granting of an unpaid leave of absence for reasons not expressly stated elsewhere in this handbook is at the sole discretion of the College. The employee must have completed one year of continuous service in order to request such a leave. The College cannot guarantee that an employee who goes on unpaid leave will be returned to his/her former position or its equivalent. Failure to return when leave expires will be considered automatic voluntary resignation from employment.

Requests for unpaid personal leave must be submitted in writing to your supervisor. The length of the leave and reason must be stated. Any leave granted will be limited to an initial leave not to exceed thirty (30) days. An employee may then request an extension of the leave by submitting to the Vice President of the department and the Director of Human Resources another written request for an extension stating the length of and the reason for the extended leave request. All accrued vacation time must be used prior to the start of an unpaid personal leave of absence. While on unpaid personal leave you are responsible for the full premium (both the employee and the

College portion) payment for benefits you were enrolled in as of the initial date of that unpaid leave. You will not accrue paid sick leave or paid vacation while on unpaid personal leave.

5.13 Tuition Remission

Full-time employees of Notre Dame College are eligible to take classes at the College free of charge after 90 days of employment. Class attendance may not interfere with the regular work schedule of the employee. Classes can only be taken if space is available. The tuition and annual fee will be waived. Classes through The Finn Center are reimbursable if not conducted by an outside vendor.

If an employee wishes to pursue a degree, the employee must meet all the entrance requirements and complete the normal admission process. Tuition benefits are also available to an employee's dependents, as defined by the IRS. If, for any reason, an employee leaves the employ of the College during any course, the former employee must pay for the balance of the course on a pro-rated basis.

Tuition benefits are available to part-time employees after 90 days of employment. A one quarter-time employee will receive one-quarter (25%) of a reduction in tuition; a one half-time employee will receive one-half (50%) of a reduction in tuition; and a three quarter-time employee will receive three quarters (75%) of a reduction in tuition. (A full-time employee works 35 hours per week). If, for any reason, an employee leaves the employ of the College during any course, the former employee must pay for the balance of the course on a pro-rated basis.

Tuition remission sheets must be signed by Human Resources at the beginning of each semester in order to receive the discount.

Staff and their families receiving tuition benefits for attendance at NDC

The following guidelines must be followed if a Staff person or relative receives a reduction in tuition, fees, and or room and board. This applies if he or she is going for their first bachelor's degree and taking at least 6 credit hours each semester.

1. Funds received from the State of Ohio through the Ohio Choice Grant, Ohio Instructional Grant, Part-time Instructional Grant, Ohio War Orphans, Ohio Academic Scholarships are established to help cover tuition costs. The Federal Pell Grant is also provided to cover tuition assistance.

The Notre Dame College Full tuition benefit will be reduced dollar for dollar with any funds received by the student from these federal and state programs.

- Students receiving a partial tuition benefit will not have their tuition benefit reduced unless the sum of state aid and the benefit amount exceeds tuition cost.
 - The College requires students to apply for Federal Financial Aid in order to determine the eligibility for these state assisted funds.
2. All other federal and institutional funds will be awarded in accordance with federal guidelines and NDC packaging guidelines.

6.1 College ID & Keys

As a vital part of our security system, a Notre Dame College identification badge with your name, photo and department will be issued to you on your first day of employment. The ID badge is also your electronic key to enter the building and other secured areas as needed and can also be used for OhioLINK. If your identification badge is lost or stolen, you must obtain a replacement and a fee may be charged. Lost or stolen cards should be reported to the Police Department, as soon as possible. Employees may also be given keys to offices or conference rooms as part of their job duties at the College. Key holders accept responsibility for the security of the equipment and area

to which they have access and should not loan keys to others. Upon termination, employees will be required to return ID badges and keys to Human Resources as part of the Exit Interview.

6.2 Travel

Employees will be reimbursed for reasonable and necessary expenses incurred in connection with approved travel on behalf of the College. The College strongly encourages use of travel discounts when making travel arrangements.

Travelers seeking reimbursement should incur the lowest reasonable travel expenses and exercise care to avoid impropriety or the appearance of impropriety. Reimbursement is allowed only when reimbursement has not been, and will not be, received from other sources. If a circumstance arises that is not specifically addressed by a policy, the most conservative course of action should be adopted.

6.3 Expense Reimbursements

Notre Dame College maintains an accountable plan for expense reimbursements. Notre Dame College reimburses tax-free timely substantiated expenses for business purposes. Excess reimbursements must be returned to the finance office within a reasonable amount of time.

Adequate substantiation means providing records to the finance office which state:

- the amount of the expense,
- the time and place of the travel/business entertainment,
- the business purpose of the expense, and
- the business relationship to Notre Dame College of any persons entertained.

In the case of an advance, any excess advance must be returned to the finance office within a reasonable amount of time along with the timely substantiation. Failure to meet these requirements will result in the reimbursement/advance being counted as taxable wages. See the finance office for any questions on expense reimbursements.

6.4 Driving and Motor Vehicle Policy

The safety of Notre Dame College's students, faculty, staff and the public is extremely important to the College. As such, the policy is a separate document with its own acknowledgement page. This policy is applicable to the drivers of College owned, leased or rented vehicles that are used in the course and scope of College business. It is also applicable to all employees who are required to drive as a part of their job description as well as all drivers of the College passenger vans.

6.5 Grant Writing

The Director of Grants & Research is responsible for writing institutional proposals, e.g., scholarships, capital campaign, etc. All other proposals are written by project directors with oversight from the Director of Grants & Research. Please contact the Director of Grants & Research for a copy of the detailed procedures for grant writing.

6.6 Fundraising

It is the policy of Notre Dame College for all fundraising monies to flow through the Office of College Advancement. Therefore, any monies raised by any groups associated with Notre Dame College (i.e. athletic teams, alumni association, student activity groups, library, etc.) will be given to the Office of College Advancement; then the Finance Office will deposit them into the appropriate fundraising account.

Money provided to the Advancement Office by noon will normally be delivered to the Finance Office by the end of the same business day. Money is deposited within 48 hours.

This policy allows for accurate accounting of all money raised by the College. It also allows the Advancement Office the opportunity to accurately tally, report, and receipt donors' gifts.

Some examples include:

1. The basketball team holds a foul-a-thon and collects pledges. Cash and checks are turned in to the Advancement Office when the fundraiser is finished. All gifts are allocated to the basketball fundraising account. Cash* is credited as an anonymous gift. Checks are credited to the legal donor (the name on the check). An acknowledgement letter/receipt is mailed to the donor within 48 hours.
2. The athletic department sells sweatshirts to benefit athletics. The cost of each sweatshirt is \$40, but they are sold for \$60 (\$20 profit per shirt). The purchaser/donor can receive a \$20 gift credit (because they received an item valued at \$40). Cash* and checks are treated as in the above example.
3. The Black Scholars holds a bake sale. All profits are delivered to the Advancement Office. All gifts are allocated to the Black Scholars account and credited as anonymous.
4. The library holds a book sale. All profits are delivered to the Advancement Office. All gifts are allocated to the library account and credited as anonymous (the donor cannot receive legal credit as a gift because they received something in return).

Some things to remember:

- The cost of raffle, lottery, or bingo tickets is never tax deductible.
- The College, or any of its affiliates, should not provide tax advice. Instead, the following terminology should be used: "Your contribution is tax-deductible to the fullest extent of the law."
- It is up to the donor to determine tax-deductibility.
- *For a donor to receive a receipt (i.e. for tax credit) for a gift of cash, the gift must be tracked properly and a valid address must be received with the gift.
- Similarly, full name and mailing address must be recorded when taking a credit card gift.
- No department, other than Advancement, should provide receipts to donors unless prior approval is given.
- Organizations wishing to conduct fundraising programs, sponsorships, and/or advertising directed at or involving the solicitation of non-students must submit a proposal through their faculty advisors and the Dean of Student Life for approval and forwarding to the Office of College Advancement.

6.7 Other Notre Dame College Handbooks

In addition to this Employee Handbook, there are other handbooks that may apply to NDC employees. These include: Notre Dame Faculty Handbook, Athletic Coaches Handbook and the Notre Dame Student Handbook.

6.8 Traffic and Parking Rules

1. Ensure there is clear wording in the handbook that: employees shall comply with all laws of the State of Ohio, including all provisions of the Ohio Traffic rules under statute Ohio Revised Code 4511 and obey all posted traffic signal devices and warning signs (e.g. stop signs, yield signs, crosswalks, directional signs). All employees shall obey all laws regarding parking as provided in Ohio Revised Code 4511.681.
2. Traffic violation tickets:
 - a. Fine schedule:
 - i. 1st Offense in 12-months: \$50 fine, once payment received, case closed
 - ii. 2nd Offense in 12-months: \$100 fine, once payment received, case closed. HR notified, warning letter issued by HR
 - iii. 3rd Offense in 12-months: \$200 fine, HR notified and disciplinary action considered
 - iv. 4th Offense in 12-months: \$250 fine, HR notified and disciplinary action considered; restricted from driving on campus for 12-months
 - v. Any subsequent offense within 12-months: will be directed to HR for disciplinary action
 - b. Processing of ticket:
 - i. Tickets will be issued to violator
 - ii. Police will retain police record copy
 - iii. Court copy will be sent to Student Services for payment due

1. After fine is paid by violator at student services, attach receipt to ticket and send back to NCDPD
 - iv. Offender may appeal ticket. Must complete appeal process form and await a hearing date.
 - v. Appeal hearing will be before Chief of Police. If a ticket is issued by Chief, Dean of Students will preside over the appeal. All decisions by the hearing official are final.
3. Parking violation tickets:
 - a. Fine Schedule:
 - i. 1st Offense in 12-months: \$20 fine for all violations, except handicap parking violations / \$250 for handicap parking violations
 - ii. 2nd Offense in 12-months: \$20 fine for all violations, except handicap parking violations / \$250 for handicap parking violations
 - iii. 3rd Offense in 12-months: \$100 fine and referral to HR for disciplinary action consideration / \$250 for handicap parking violations
 - iv. 4th Offense in 12-months: \$150 fine and banned from parking on college campus for 12-months / \$250 for handicap parking violations
 - v. NOTE: Unpaid parking tickets
 1. >60days old, will be forwarded to HR for disciplinary action consideration
 2. Violators with fines greater than \$250 outstanding, will be subject to a vehicle 'boot' until fines paid in full
 - b. Processing of Tickets
 - i. Tickets will be issued to violator
 - ii. Police will retain police record copy
 - iii. Court copy will be sent to Student Services for payment due
 1. After fine is paid by violator at student services, attach receipt to ticket and send back to NCDPD
 - iv. Offender may appeal ticket. Must complete appeal process form and await a hearing date.
 - v. Appeal hearing will be before Chief of Police. If a ticket is issued by Chief, Dean of Students will preside over the appeal. All decisions by the hearing official are final.