



1-31-2022

February 3, 2022: Agenda

University of North Dakota

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University Senate Agenda

February 2022 Meeting

TO: Members of the University Senate

FROM: Cristina Oancea, University Senate Chair, 2021-2022

SUBJECT: February 3, 2022 University Senate Meeting

DATE: January 31, 2022

The February meeting of the University Senate will be held on Thursday, February 3, 2022, from 3:30 - 5:00 pm via Zoom. Voting members should use the link they will be sent one day prior to the meeting to join the webinar as a panelist. A new account for the University Senate meetings has been created, so please use the new link you will be sent. This email will come from Dan Boese (dan.boese@und.edu). Please check your clutter/junk/spam folders if you do not see the invitation in your inbox. A public link for visitors is available on the Senate website and in the University Letter.

I. Call to Order (Chair Cristina Oancea)

II. Senate Calendar:

a. Announcements/Chair opening remarks


i. The future path of UND procurement (Jack Zencheck, Jed Shivers, Karla Mongeon-Stewart, David Krause)

ii. The Higher Learning Commission (HLC) re-accreditation executive team update:

1. HLC Criterion 1: Stacey Borboa-Peterson and Shari Nelson
2. HLC Criterion 2: Michael Dodge and Laura Look

iii. Reminder re committee annual report deadlines:

1. Due Sept. 23rd, 2021 (overdue): Compensation
2. Due Oct. 21st, 2021 (overdue): Essential Studies, Honorary Degrees, Standing Committee on Faculty Rights
3. Due Nov. 18th, 2021 (overdue): Legislative Affairs
4. Due Feb. 17, 2022: Administrative Procedures, Intellectual Property, Student Academic Standards
5. Due Mar. 24, 2022: Committee on Committees, Conflict of Interest/Scientific Misconduct, Curriculum, Intercollegiate Athletics
6. Due Apr. 21, 2022: Budget, Online & Distance Education, Scholarly Activities

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- iv. The ND Attorney General's Opinion on the State Board of Higher Education (SBHE) questions about the Senate Bill (SB) 2030 as well as Eric Olson's (NDUS council) guidance regarding that opinion (Elizabeth Legerski, Richard Millsbaugh; see attached documents)
 - v. Council of College Faculties update (Richard Millsbaugh)
 - vi. Staff Senate update (Brian Schill)
 - vii. Student Government update (Kaelan Reedy)
 - viii. Updates from the Provost (Eric Link)
 - b. Establish Quorum (Secretary Scott Correll)
 - c. Review and approval of December 2, 2021 Senate meeting minutes (see attached)
 - i. Fall 2021 Senate Attendance Report is also attached, at end of minutes
 - d. Senate Executive Committee report (Chair Cristina Oancea)
 - i. Approval of the request for change to the assessment process for Essential Studies (see attached documents; Karyn Plumm, Donovan Widmer, Tim Burrows)
 - ii. Approval of Council of College Faculties' Constitution Changes (see attached)
 - iii. Approval of Faculty Handbook Committee Changes (see attached; Beth Valentine)
 - e. Question period (20 minutes)

III. Consent Calendar:

- a. Senate Library Committee Annual Report (see attached)
- b. Academic Policies & Admissions Committee Annual Report (see attached)
- c. University Senate Curriculum Committee Report February 2022 (see attached)

IV. Business Calendar:

- a. 2022 Honorary Degree Candidate nomination (see attached)
- b. Council of College Faculties Constitution Changes (see attached)
- c. Essential Studies Assessment Process Change (see attached)
- d. Faculty Handbook Committee Changes as suggested by the Equal Opportunity and Title IX Office (see attached)

V. Matters arising

VI. Adjourn

LETTER OPINION

2021-L-02

November 3, 2021

Chancellor Mark Hagerott
North Dakota University System
600 East Boulevard Ave., Dept. 215
Bismarck, ND 58505-0230

Dear Chancellor Hagerott:

Thank you for your letter asking for clarification about the legality and the interpretation of Senate Bill 2030. You asked whether S.B. 2030 was unenforceable considering prior court decisions, whether it violated separation of powers, and whether it was unconstitutionally vague. Finally, you asked how the State Board of Higher Education (SBHE) and the institutions under its control should interpret N.D.C.C. § 15-10-48, the Challenge Grant statute, as amended by S.B. 2030, along with how such an institution could verify and certify its compliance with S.B. 2030's new requirement. It is my opinion that S.B. 2030 is not facially unenforceable based on the cited court decisions. I will not opine that a duly enacted statute is unconstitutional unless it is clearly and patently unconstitutional; S.B. 2030 is not facially unconstitutional under all circumstances. Instead, it is my opinion that S.B. 2030 should be read to carry out the purpose of the Legislative Assembly in enacting it, while avoiding constitutional conflicts.

BACKGROUND

The Higher Education Challenge Grant Fund was established by the 63rd Legislative Assembly as part of the North Dakota University System (NDUS) appropriations bill.¹ The Challenge Grant fund was established to support “projects dedicated exclusively to the advancement of academics.”² The enrolled bill

¹ S.B. 2003, 2013 N.D. Leg., § 2 (appropriating \$29,000,000 in matching funds for the 2013-2015 biennium); S.B. 2013, 2013 N.D. Leg., §§ 5-10 (establishing the Challenge Grant Committee and the terms for the disbursement of matching funds).

² S.B. 2003, 2013 N.D. Leg., § 5; S.B. 2003, 2013 N.D. Leg., § 6.

permitted the Challenge Grant Committee to award matching funds for:

investments in research, scholarships, technology, endowed chairs, and investments in educational infrastructure, including new capital construction projects that conform with the university system campus master plan and space utilization study.³

The Higher Education Challenge Grant Fund and the Associated Committee were eventually codified in N.D.C.C. §§ 15-10-48 through 15-10-53. Each subsequent legislative assembly has reenacted the Challenge Grant Fund, while providing differing levels of funding and changing some of the conditions to receive funds.⁴ However, the funding for the Challenge Grant matching funds has traditionally remained part of the NDUS's appropriations bills.

During the 67th Legislative Assembly, Senate Bill 2030 was introduced at the request of the Higher Education Committee, starting as a simple appropriation of \$9.65 million to fund the Challenge Grant Fund.⁵ The Senate Appropriations Committee subsequently increased the amount of funding to \$20 million, and proportionately increased the statutory caps located in N.D.C.C. § 15-10-48 and 15-10-49 that govern the amount of matching grants each institution may receive.⁶ This version was given a "Do Pass" recommendation by the Senate Appropriations Committee, and was sent to the Senate floor.

On the Senate floor, two amendments were proposed, one of which forms the basis for this opinion request. The amendment was proposed by Senator Myrdal, and would have added the following language to N.D.C.C. §§ 15-10-48 and 15-10-49:

The institution is not sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs, or promotes the performance of, an abortion unless the abortion is necessary to prevent the death of the woman, and not participating or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization, that between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth.⁷

³ S.B. 2003, 2013 N.D. Leg., § 10.

⁴ See N.D.A.G. 2020-L-01 (discussing, inter alia, the addition of language barring the use of matching funds for scholarships intended solely for the benefit of athletics).

⁵ S.B. 2030, 2021 N.D. Leg., version 21.0144.01000.

⁶ S.B. 2030, 2021 N.D. Leg., version 21.0144.02000.

⁷ S.B. 2030, 2021 N.D. Leg., version 21.0144.02002.

Senator Myrdal's floor amendment passed on a voice vote and S.B. 2030, as amended, was passed by the Senate by a 29-18 margin.^{8, 9}

Subsequently, S.B. 2030 was introduced in the House and referred to the Appropriation Committee's Education and Environment Division for consideration.¹⁰ The Education and Environment Division held eight separate hearings on S.B. 2030, heard several hours of testimony, and considered many proposed amendments.¹¹

Debate over the language added by Senator Myrdal's amendment was extensive, with testimony from representatives of the North Dakota University System, its institutions, and groups opposing the amendment as well as testimony from legislative sponsors and groups in support. Through this debate, it became clear that the centerpiece of the concerns mentioned by Senator Myrdal during her floor speech was a federal grant, the "C-PREP" grant, awarded to a North Dakota State University nursing professor, which included a subaward to Planned Parenthood of Minnesota, North Dakota, and South Dakota (PPMNNDSD) to conduct certain programs aimed at preventing pregnancy in at-risk youths. During multiple hearings, NDSU officials indicated that the grant would expire at the end of September 2021 and would not be renewed.¹² Additional concerns were raised regarding academic freedom, student free speech, and accreditation.¹³

⁸ 2021 S.J. 615; S.B. 2030; 2021 N.D. Leg., version 21.0144.04000.

⁹ You refer to the amendment added by Senator Myrdal's floor amendment as the "third eligibility requirement." This opinion will use that terminology in the interest of clarity.

¹⁰ *See, e.g.*, Hearing on S.B. 2030 Before the House Comm. on Approp., Educ. and Env't, 2021 N.D. Leg. (Mar. 15).

¹¹ *See* Hearing on S.B. 2030 Before the House Comm. on Approp., Educ. and Env't, 2021 N.D. Leg. (Mar. 15); Hearing on S.B. 2030 Before the House Comm. on Approp., Educ. and Env't, 2021 N.D. Leg. (Mar. 23); Hearing on S.B. 2030 Before the House Comm. on Approp., Educ. and Env't, 2021 N.D. Leg. (Mar. 24); Hearing on S.B. 2030 Before the House Comm. on Approp., Educ. and Env't, 2021 N.D. Leg. (Mar. 25); Hearing on S.B. 2030 Before the House Comm. on Approp., Educ. and Env't, 2021 N.D. Leg. (Mar. 26); Hearing on S.B. 2030 Before the House Comm. on Approp., Educ. and Env't, 2021 N.D. Leg. (Mar. 29); Hearing on S.B. 2030 Before the House Comm. on Approp., Educ. and Env't, 2021 N.D. Leg. (Mar. 30); Hearing on S.B. 2030 Before the House Comm. on Approp., Educ. and Env't, 2021 N.D. Leg. (Apr. 1).

¹² Hearing on S.B. 2030 before the House Comm. on Approp., Educ. and Env't, 2021 N.D. Leg. (Mar. 29) (Statement of Dean Bresciani).

¹³ *Id.*

On April 5, 2021, the House Committee on Appropriations, Education and Environment adopted a new proposed amendment to S.B. 2030, which retained Senator Myrdal's requirement regarding abortion prohibitions, but added a limited exemption:

This paragraph does not apply to agreements entered into with medical hospitals and clinics by the [U]niversity of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education.¹⁴

The bill as amended was subsequently passed by the House Appropriations Committee and on the House floor.¹⁵ While the Senate initially refused to concur with the House Amendments to S.B. 2030, a conference committee recommended that the Senate accede to the House Amendments,¹⁶ the Senate passed the House version on April 26, 2021.¹⁷ As a result, in order to qualify for a challenge grant, an institution must certify that:

The institution is not sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs, or promotes the performance of, an abortion unless the abortion is necessary to prevent the death of the woman, and not participating in or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization, that between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. This paragraph does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education.¹⁸

¹⁴ S.B. 2030, 2021 N.D. Leg., version 21.0144.05000.

¹⁵ 2021 House Journal at 1431 (Apr. 5, 2021); 2021 House Journal at 1447 (Apr. 6, 2021); 2021 House Journal at 1478 (Apr. 7, 2021).

¹⁶ 2021 Senate Journal at 1677-1678 (Apr. 26, 2021).

¹⁷ 2021 Senate Journal at 1678 (Apr. 26, 2021). This version also included language which would have imposed a criminal penalty and a reduction in funding of \$2.8 million for violating the new language from Senator Myrdal's Floor Amendment. *Id.* However, both penalties were vetoed on May 20, 2021. *See* 2021 Senate Journal at 1927 (May 20, 2021).

¹⁸ N.D.C.C. §§ 15-10-48(1)(b)(3); 15-10-49(1)(b)(3).

DISCUSSION

Your letter asks a number of questions about the legality and interpretation of N.D.C.C. §§ 15-10-48 and 15-10-49, as amended by S.B. 2030. I will address these questions separately, including questions about the application of prior court decisions, questions regarding the constitutionality of the statutes, and questions regarding the interpretation of the statutes.

1. Questions Regarding Application of Prior Court Decisions

As discussed above, the language of the eligibility requirement added by S.B. 2030 functionally mirrors language already included in statute as N.D.C.C. § 14-02.3-01(2), (3). As you note in your letter, chapter 14-02.3, N.D.C.C., has been the subject of several legal challenges. You ask whether the decisions in these legal challenges would apply to block the application of the new eligibility requirement. Based on a review of the decisions, and the purpose and function of the requirement added by S.B. 2030, it is my opinion that neither of these decisions would preclude the application of the requirement.

In 1981 a family planning clinic filed suit, asserting, among other arguments, that N.D.C.C. § 14-02.3-02 conflicted with Title X of the federal Medicaid statute.¹⁹ The United States Court of Appeals for the Eight Circuit agreed, holding that:

The conflict between Title X and [N.D.C.C. §] 14-02.3-02 is clear. Even under the most aggravated circumstances, such as where a woman's life would be endangered if she carried the pregnancy to term, the North Dakota provision prohibits Title X grantees from making an abortion referral. [. . .] Accordingly, the North Dakota statute is invalid under the Supremacy Clause."²⁰

The Court also declined to read an exception into section 14-02.3-02, N.D.C.C., holding that to do so would be "legislative enactment clearly beyond its judicial role."²¹ Subsequently, my office clarified, in response to a request from the NDUS, that the entirety of section 14-02.3-02, N.D.C.C., had been invalidated.²²

However, *Valley Family Planning* does not invalidate the S.B. 2030 requirement. The holding in *Valley Family Planning* was based on section 14-02.3-02, N.D.C.C., which expressly prohibits the use of state family planning funds to provide or promote the provision of an abortion, which, the court determined directly conflicts with Title X of the federal Medicaid statute.²³ There is no obvious conflict with respect to the requirement added in S.B. 2030, which does not prohibit the use of

¹⁹ *Valley Fam. Plan. v. N.D.*, 661 F.2d 99 (8th Cir. 1981).

²⁰ *Id.*

²¹ *Id.*

²² N.D.A.G. 2013-L-02.

²³ *Valley Fam. Plan.*, 661 F.2d at 102.

state Medicaid funds to provide or promote the provision of an abortion, but instead renders NDUS institutions ineligible to receive a matching grant from the state if they cannot meet the terms of the requirement.²⁴

Similarly, in *Fargo Women's Health Organizations, Inc. v. Wessman*,²⁵ the United States District Court for the District of North Dakota held that N.D.C.C. § 14-02.3-01 violated the Supremacy Clause of the United States Constitution because it is inconsistent with Title XIX of the Social Security Act of 1965. In doing so, the court held that North Dakota may not continue to enforce section 14-02.3-01, N.D.C.C., while still accepting federal Medicaid funds.²⁶ However, the District Court went on to clarify in a subsequent order that the “court did *not* invalidate the North Dakota Statute; it simply declared that section 14-02.3-01 was inconsistent with Title XIX . . . and enjoined defendant from enforcing this statute.”²⁷ As a result, section 14-02.3-01, N.D.C.C., remains on the books, and could be enforced under the right circumstances (i.e., the state ceased its acceptance of federal funds under Title XIX).²⁸

As with *Valley Family Planning*, in *Fargo Women's Health Organization, Inc.* the court's determination dealt with a North Dakota statute's conflict with a specific federal law. Here, while the language of the new requirement is like that of section 14-02.3-01, N.D.C.C., the effect is entirely different. If a NDUS institution does not meet the new eligibility requirement, it does not receive additional state funding for the purposes set forth in N.D.C.C. § 15-10-53, such as investments in research, scholarships, technology, endowed chairs, and educational infrastructure. This does not act to prevent funds from flowing to entities which would otherwise be entitled to state funding under Title XIX of the Social Security Act of 1965.²⁹ In summary, because the circumstances that resulted in Section 14-02.3-01 being enjoined are not present with respect to the S.B. 2030 requirement, it is my opinion that the prior court decisions do not categorically bar the enforcement of the new eligibility requirement.

2. Constitutional Questions

Your letter also asks whether the S.B. 2030 requirement violates several provisions of the state and federal constitutions. Section 1-02-38, N.D.C.C., provides that, when enacting a statute, it is presumed that the Legislature was intending to comply with the state and federal constitutions. As a result, it is presumed when construing a statute that the Legislature intended to comply with the constitutions

²⁴ N.D.C.C. §§ 15-10-48; 15-10-49.

²⁵ *Fargo Women's Health Org., Inc. v. Wessman*, No. A3-94-36, 1995 WL 465830 at *11-12 (D. N.D. Mar. 15, 1995).

²⁶ *Id.* at *12.

²⁷ *Fargo Women's Health Org., Inc. v. Wessman*, No. A3-94-36, 1995 WL 498936 (D. N.D. Apr. 13, 1995).

²⁸ *Id.*

²⁹ *See id.*

of North Dakota and of the United States and any doubt must be resolved in favor of a statute's validity.³⁰ This presumption is conclusive unless the statute clearly contravenes the state or federal constitution.³¹ As a result, only where the statute is clearly and patently unconstitutional, for example, when the United States Supreme Court has clearly spoken on the precise issue, will this office deviate from this presumption of constitutionality.³² Moreover, because it is the Attorney General's role to defend statutory enactments from constitutional attacks, this office has been reluctant to issue an opinion questioning the constitutionality of a statutory enactment.³³ Accordingly, absent controlling case law to the contrary, this office will not opine that a bill, if enacted, would be unconstitutional.³⁴ As discussed above, the cases cited in your letter are not controlling, and will not prompt this office to call the constitutionality of the requirement into question.

3. Interpretation of the requirement added by S.B. 2030

The primary goal when interpreting a statute is to determine the legislative intent by first looking at the language of the statute.³⁵ It is only appropriate to look beyond the words of the statute where the language is ambiguous.³⁶ When interpreting a statute, the words are to be understood according to their ordinary meaning,³⁷ based on their context.³⁸ Statutes must be interpreted "to give meaning and effect to every word, phrase, and sentence," thus avoiding "constructions which would render part of the statute mere surplusage."³⁹

"Generally, the law is what the Legislature says, not what is unsaid."⁴⁰ "It must be presumed that the Legislature intended all that it said, and that it said all that it

³⁰ *Haney v. N.D. Workers Comp. Bureau*, 518 N.W.2d 195, 197 (N.D. 1994); *Snortland v. Crawford*, 306 N.W.2d 614, 626 (N.D. 1981); *State ex rel. Johnson v. Baker*, 21 N.W.2d 355, 359 (N.D. 1945).

³¹ *State v. Hagg*, 410 N.W.2d 152, 154 (N.D. 1987).

³² N.D.A.G. 2003-L-54.

³³ N.D.A.G. 2003-L-21. Additionally, because a legislative enactment will only be found unconstitutional upon concurrence of four of five justices of the North Dakota Supreme Court, (N.D. Const. art. VI, §4) "[o]ne who attacks a statute on constitutional grounds, defended as that statute is by a strong presumption of constitutionality, should bring up his heavy artillery or forego the attack entirely." *S. Valley Grain Dealers Ass'n v. Bd. of Cnty. Comm'rs of Richland Cnty.*, 257 N.W.2d 425, 434 (N.D. 1977).

³⁴ N.D.A.G. 2003-L-21.

³⁵ *Nesdahl Survey'g & Eng'g, P.C. v. Ackerland Corp.*, 507 N.W.2d 686, 688 (N.D. 1993) (citing, e.g., *Kim-Go v. J.P. Furlong Enters., Inc.*, 460 N.W.2d 694, 696 (N.D. 1990)).

³⁶ *Nesdahl*, 507 N.W.2d at 689; N.D.C.C. § 1-02-39; see also N.D.C.C. § 1-02-05. ("When the wording of a statute is clear and free of all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.")

³⁷ *Kim-Go*, 460 N.W.2d at 696 (citing N.D.C.C. §§ 01-02-02, 01-02-03).

³⁸ N.D.C.C. § 01-02-03.

³⁹ *Sorenson v. Felton*, 793 N.W.2d 799, 803 (N.D. 2011) (quoting *State v. Laib*, 644 N.W.2d 878, 882 (N.D. 2002)).

⁴⁰ *Little v. Tracy*, 497 N.W.2d 700, 705 (N.D. 1993).

intended to say [and] that it made no mistake in expressing its purpose and intent.”⁴¹ It is therefore inappropriate to “indulge in speculation as to the probable or possible qualifications which might have been in the mind of the legislature, but the statute must be given effect according to its plain and obvious meaning, and cannot be extended beyond it.”⁴²

At base, it appears that the eligibility requirement added by S.B. 2030 is intended to discourage the institutions under the control of the SBHE from taking certain disfavored actions.⁴³ Nothing about this motive is inappropriate or violative of constitutional norms. However, there are multiple plausible readings of the statutory language, as your letter indicates. There are two primary elements of the third eligibility requirement: 1) not to sponsor, partner with, apply for grants with, or provide a grant subaward to a person that performs or promotes the performance of abortion; and 2) not to participate in or sponsor any program producing, distributing, publishing, disseminating, or approving materials which do not promote normal childbirth over abortion.

Both elements are susceptible to multiple interpretations and are thereby ambiguous. The requirement could plausibly be read to restrict multiple levels of engagement between NDUS institutions and organizations which provide or promote the provision of abortions, including those you noted: 1) the payment of funds from NDUS institutions to such organizations; 2) joint venturing between NDUS institutions and such organizations; 3) educational relationships between NDUS institutions and such organizations; 4) student engagement with such organizations; 5) staff, faculty, or student advocacy in support of such organizations; or even 6) donor relationships with entities or persons who advocate in favor of or financially support such organizations. The statute is also ambiguous with respect to what organizations might be subject to the statute: 1) abortion providers; 2) entities, such as hospitals, that refer patients for abortion-related services; 3) organizations, such as non-profits or political parties, that advocate in support of access to abortion or provide funding to abortion providers; or 4) organizations that publish advocacy or educational materials which discuss abortion without giving the required statement preferring natural childbirth over abortion.

“When a statute’s language is ambiguous because it is susceptible to differing but rational meanings, [interpretation may be aided by] extrinsic aids, including legislative history, along with the language of the statute, to ascertain the Legislature’s intent.”⁴⁴ The Legislature has statutorily authorized courts to consider the object sought to be obtained by the Legislature and the circumstances under

⁴¹ *Little*, 497 N.W.2d at 705 (citing *City of Dickinson v. Thress*, 290 N.W. 653, 657 (1940)).

⁴² *Dickinson*, 290 N.W. at 657.

⁴³ N.D.C.C. § 15-10-48(1)(b)(3); N.D.C.C. § 15-10-49(1)(b)(3).

⁴⁴ *State v. Laib*, 644 N.W.2d 878, 882 (N.D. 2002) (citing *State v. Rambosek*, 479 N.W.2d 832, 834 (N.D. 1992)).

which a statute was enacted in interpreting an ambiguous statute.⁴⁵ The overarching object of the Legislature in passing the requirement appears to have been to entirely sever the relationship between NDSU and PPMNNDSD, and to bar the establishment of similar relationships with other, similar organizations. However, based on your letter, doing so may require NDUS institutions to police faculty and student scholarship and research, student internships, textbook choice by faculty, and student and faculty advocacy on issues such as access to abortion. Any interpretation requiring these actions by NDUS institutions could be determined to violate the guarantees of the First Amendment to the United States Constitution and Article I, Section 4 of the North Dakota Constitution, including student speech and association⁴⁶ and faculty academic freedom.⁴⁷

The North Dakota Supreme Court adheres to the “cardinal principle that if a serious doubt of a statute’s constitutionality is raised, the court will first ascertain whether a construction of the statute is fairly possible by which the constitutional question may be avoided.”⁴⁸ “If a statute may be construed in two ways, one that renders it of doubtful constitutionality and one that does not, we adopt the construction that avoids constitutional conflict.”⁴⁹

⁴⁵ N.D.C.C. § 1-02-39.

⁴⁶ See, e.g. *McCauley v. Univ. of the V.I.*, 618 F.3d 232, 247, 250 n.12 (3d Cir. 2010) (public universities have only limited leeway to regulate student speech and association); *InterVarsity Christian Fellowship/USA v. Univ. of Iowa*, 5 F.4th 855, 863-864 (8th Cir. 2021) (finding that a school’s decision to deregister student organization because of its viewpoint violated the First Amendment); *Business Leaders in Christ v. Univ. of Iowa*, 991 F.3d 969, 981 (8th Cir. 2021) (noting that the Supreme Court has repeatedly held that singling out student speech or student groups for their speech or viewpoint violated the First Amendment) (citing *Christian Legal Soc. Chapter of the Univ. of Calif. v. Martinez*, 561 U.S. 661, 683-84 (2010); *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995); *Widmar v. Vincent*, 454 U.S. 263 (1981); *Healy v. James*, 408 U.S. 169, 187-88 (1972)).

⁴⁷ See, e.g., *Meriwether v. Hartop*, 992 F.3d 492, 505 (6th Cir. 2021) (“professors at public universities retain First Amendment protections at least when engaged in core academic functions, such as teaching and scholarship”); *Hardy v. Jefferson Cmty. Coll.*, 260 F.3d 671, 680 (6th Cir. 2001) (rejecting as “totally unpersuasive” “the argument that teachers have no First Amendment rights when teaching, or that the government can censor teacher speech without restriction”); *Burnham v. Ianni*, 119 F.3d 668, 679 (8th Cir. 1997) (finding that freedom of expression protected professor’s display of photographs in display case); *Keyishian v. Bd. of Regents of Univ. of State of N.Y.*, 385 U.S. 589, 603 (1967) (invalidating state law prohibiting teachers from being employed if they were members of “seditious” organizations on the grounds of academic freedom); *Asociación de Educación Privada de Puerto Rico, Inc. v. Garcia-Padilla*, 490 F.3d 1, 11 n. 6 (1st Cir. 2007) (applying principles of academic freedom applies to textbook selection).

⁴⁸ *State ex rel. Heitkamp v. Fam. Life Servs., Inc.*, 616 N.W.2d 826, 841 (2000).

⁴⁹ *Ash v. Traynor*, 579 N.W.2d 180, 182 (1998).

This office follows that rule. If a broad interpretation of a statute would result in “constitutional problems,” this office will construe the statute to avoid those constitutional conflicts.⁵⁰ As a result, this office will interpret the third eligibility requirement narrowly, so as to accomplish the legislature’s intent to prevent money from flowing from state coffers to organizations that promote or provide abortion services and to avoid entanglement with the same organizations, while avoiding the significant constitutional concerns regarding academic freedom and student free speech and association.

As a result, it is my opinion that the requirement should be interpreted as follows: 1) no funds may flow directly from NDUS institutions to persons or organizations which perform or promote the performance of abortion unless the abortion is necessary to prevent the death of the woman, whether by contract, grant, grant subaward, or otherwise, except ordinary and neutral payments to support internships or other educational opportunities; and 2) NDUS institutions may not enter into any contract or other agreement which would explicitly result in participation in or sponsorship of any program which produces, distributes, publishes, disseminates, endorses, or approves materials that, between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. These elements do not, and cannot, include any measures which would violate academic freedom or student free speech or expression, or the first amendment rights of the public.

This interpretation further validates the intent of the legislature, as throughout the process legislators opined that the proposed requirement would not violate the constitutional rights of the institutions, their employees, their students, or their affiliated organizations.⁵¹

Your letter provided fourteen factual questions, many including sub-parts, regarding how any interpretation of the requirement would apply to specific factual situations on the campuses. However, “this office will not issue an opinion when the issues presented are questions of fact rather than questions of law.”⁵² The Challenge Grant Review Committee, NDUS and its institutions have been assigned

⁵⁰ N.D.A.G. 2002-F-07 (citing N.D.A.G. 2001-L-25).

⁵¹ *E.g.*, Hearing on S.B. 2030 Before the House Comm. on Approp., Educ. and Env’t, 2021 N.D. Leg. (Mar. 23); Hearing on S.B. 2030 Before the House Comm. on Approp., Educ. and Env’t, 2021 N.D. Leg. (Mar. 24); Hearing on S.B. 2030 Before the House Comm. on Approp., Educ. and Env’t, 2021 N.D. Leg. (Mar. 25); Hearing on S.B. 2030 Before the House Comm. on Approp., Educ. and Env’t, 2021 N.D. Leg. (Mar. 29); Hearing on S.B. 2030 Before the House Comm. on Approp., Educ. and Env’t, 2021 N.D. Leg. (Apr. 1); Hearing on S.B. 2030 Before the House Comm. on Approp., 2021 N.D. Leg. (Apr. 1); Hearing on S.B. 2030 Before the Senate Conf. Comm. on Approp., 2021 N.D. Leg. (Apr. 20).

⁵² N.D.A.G. 1999-L-68. *See also*, N.D.C.C. § 54-12-01(6), (8) (opinions issued to state agencies on “legal or constitutional questions”).

counsel by my office, and those attorneys can advise their clients on the application of this opinion and the requirement.

4. Standard of Diligence

The final question in your letter regards the proper standard for determining whether a campus is in compliance with the requirement. It is my opinion that the standard set forth in N.D.C.C. § 44-08-05.1(4) applies to determining compliance. That section effectively provides that public officers who approve payments must use “ordinary care and diligence” to avoid personal liability for any false or fraudulent charges.⁵³ While under N.D.C.C. §§ 15-10-48 and 15-10-49, the Challenge Grant Review Committee is responsible for evaluating the matching fund applications submitted by NDUS institutions, the Committee is entitled to rely on the representations provided by the institutions, including representations regarding compliance with the requirement as of the date the application is submitted.

CONCLUSION

Based on the foregoing, it is my opinion that the requirement added in S.B. 2030 is not preempted by prior legal decisions, and this office will not call the constitutionality of a duly enacted statute into question when a violation is not clearly established. Instead, it is my opinion that the requirement should be read to carry out the purpose of the Legislative Assembly in enacting it, while avoiding constitutional conflicts, and that NDUS officials should exercise “ordinary care and diligence” in ensuring compliance with the requirement.

Sincerely,

Wayne Stenehjem
Attorney General

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.⁵⁴

⁵³ N.D.C.C. § 44-08-05.1(4).

⁵⁴ *See State ex rel. Johnson v. Baker*, 21 N.W.2d 355 (N.D. 1946).

MEMORANDUM

TO: Chancellor Mark Hagerott
FROM: Eric D. Olson
DATE: November 15, 2021
CC: Institutional CEOs
RE: SB 2030 Guidance

This guidance is issued in response to questions asked of the North Dakota Attorney General regarding the application of S.B. 2030 in the context of the North Dakota Challenge Grant Fund Committee. As in the past, I have structured this guidance in the form of a frequently-asked-questions document, geared toward answering the questions asked by Chancellor Hagerott to the Attorney General, and referred by the Attorney General to counsel for the NDUS and the Challenge Grant Committee. As always, this guidance is provided in my capacity as general counsel for the North Dakota University System and State Board of Higher Education. Please do not consider any advice or opinion in this memorandum as constituting personal legal advice; for personal legal advice, please consult a private attorney.

1. How did the Attorney General's Opinion interpret S.B. 2030?

In short, the Attorney General interpreted S.B. 2030 to carry out the intent of the legislature while avoiding constitutional issues related to academic freedom, student free speech and association, and the First Amendment Rights of the public. Specifically, the Attorney General interpreted S.B. 2030 to require institutions to comply with two elements to follow N.D.C.C. §§ 15-10-48(1)(b)(3) & 15-10-49(1)(b)(3):

- a. No funds may flow directly from NDUS institutions to persons or organizations which perform or promote the performance of an abortion unless the abortion is necessary to prevent the death of the woman, whether by contract, grant, grant subaward, or otherwise, except ordinary and neutral payments to support internships or other educational opportunities; and
- b. NDUS institutions may not enter into any contract or other agreement which would explicitly result in participation in or sponsorship of any program which produces, distributes, publishes, disseminates, endorses, or approves materials that, between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth.

The Opinion makes clear that the requirement is not enforceable to the extent that it would violate academic freedom or student free speech or expression, or the First Amendment rights of the public.

2. What standard of due diligence must institutions meet to apply for Challenge Grant Funds?

The Attorney General endorsed the use of the “ordinary care and diligence” standard, as set forth in N.D.C.C. § 44-08-05.1(4), which governs the expenditure of state funds by public funds, and the level of diligence required to avoid personal liability for any unallowable charges. This phrase means “such [care] as a person usually exercises about that person’s own affairs of ordinary importance.” *See* N.D.C.C. § 01-01-15. As a result, so long as an institution engages in efforts that are reasonably likely to uncover any impermissible activities under N.D.C.C. §§ 15-10-48(1)(b)(3) & 15-10-49(1)(b)(3), institutions have met their burden to receive matching funds.

3. At what point must the institution be in compliance with the requirement created by S.B. 2030?

The Attorney General’s Opinion notes that compliance will be determined “as of the date the application is submitted.”

4. Will this requirement be reflected on the Challenge Grant application form?

While the Attorney General’s Opinion was received after the form had been provided to the institutions for the November 2021 meeting, for future meetings the application form will include a place where a campus will certify compliance with N.D.C.C. §§ 15-10-48 & 15-10-49.

5. Who is responsible for determining whether an organization or person “performs, or promotes the performance of, an abortion”? Who is responsible for determining whether such abortions are only provided (or promoted) when the abortion is necessary to prevent the death of the woman?

Institutions should engage in frank discussions with their contract counterparties and vendors and may reasonably rely on the representations of their counterparties and vendors, so long as the institution does not have actual knowledge that contradicts the representations of the counterparty or vendor. Institutions should carefully document these representations and consider formalizing a process or centralized location where this information may be stored for easier reference.

6. Is an institution sponsoring an organization by hosting a speaker from that organization, which is protected by the First Amendment and H.B. 1503 if invited by a student, student organization, or faculty organization?

Hosting a speaker from an organization does not constitute “sponsorship” of the institution, even if the institution “sponsors” a given lecture, debate, or discussion. Moreover, the right of a student, student organization, or faculty to invite a guest speaker is protected by the First Amendment and N.D.C.C. § 15-10.4-02(5)(f). The Attorney General’s Opinion recognizes this protection.

7. Is a faculty member causing an institution to “participat[e] in” a “program” “endorsing [] or approving materials” by choosing a textbook — core academic freedom — if the textbook discusses abortion without the required content-based restriction regarding abortion vis-à-vis natural childbirth?

No. Textbook selection is part of the core academic freedom protected by the First Amendment, N.D.C.C. § 15-10.4-02(3) (as “classroom speech”), and SBHE Policy 401.1. Moreover, the mere selection of a textbook does not by definition constitute “endors[ement]” or “approv[al]” of the entirety of the contents of the textbook, whether by the assigning professor nor by the institution.

8. Does recognizing a student organization with a pro-choice focus and providing them with student activity fee funds constitute “sponsoring” a “program” that “disseminat[es]” “materials of any type or from any organization” if the student organization distributes materials which do not include the mandated statement comparing normal childbirth to abortion?

No. The speech of student organizations is not attributable to the institution as a matter of First Amendment law. Additionally, institutions may not withhold recognition or student fee funds from a student organization based on the content of the organization’s beliefs or protected speech under the First Amendment, N.D.C.C. § 15-10.4-02(5)(c), and SBHE Policies 503.1 and 503.3.

9. Is an institution “partnering with” a “person or organization” that “promotes the performance of [] an abortion” if a vendor has made public statements in support of abortion rights, or has donated to organizations which perform abortions or promote the performance of an abortion?

Generally, no. The speech and lawful political activities of a vendor who contracts with an institution are not attributable to the institution unless the terms of the contract specifically and explicitly authorize the vendor to make those specific statements on the institution’s behalf. Moreover, public statements or donations by private entities or persons may not be the basis of state action without creating potential concerns related to viewpoint or content-based discrimination.

10. What if a professor chooses to partner with a colleague to pursue a grant, if that colleague is employed at an out-of-state institution that directly contracts with or has a grant relationship with an organization which “performs, or promotes the performance of, an abortion”?

The relationship would not be prohibited by S.B. 2030’s requirement. If the faculty member chose to partner with an employee of an out-of-state institution on a grant which would result in a sub-grant award to an organization which performs or promotes the performance of an abortion, then any funds could not be handled by the NDUS institution and would likely need the out-of-state institution to act as the fiscal agent, unless the grant was in the area of nursing or the School of Medicine and Health Sciences.

11. What if an employee engages in prominent abortion-related advocacy in their scholarship (i.e., research, writing, and publication)? Would the third eligibility requirement mean an institution must sever ties with such employees, regardless of discrimination, contractual, or policy concerns?

This work-related advocacy would likely be covered by principles of academic freedom, and the institution would not be required to sever ties with such an employee.

12. What if the employee’s advocacy occurs outside of work?

S.B. 2030 does not reach an employee’s outside-of-work activities, and any action taken against an employee based on out-of-work political advocacy or work could violate SBHE Policy 308.3, which provides that “[n]o NDUS employee shall face discipline or retaliation related to off-duty political activity which complies with this policy, and no NDUS employee may be prohibited from engaging in off-duty political activity which complies with this policy.

13. If a student (other than at the UND Medical school or a nursing student) seeks an internship at an organization that “performs, or promotes the performance of, an abortion” for academic credit, does the agreement between the institution and the organization which permits the student to receive credit violate the third eligibility requirement?

No. If no funds are paid from the institution to the organization, S.B. 2030 is not implicated. Moreover, even if funds are paid to the organization related to hosting the student’s internship, those funds may be paid as an “ordinary and neutral payment [] to support internships or other educational opportunities,” as permitted by the Attorney General’s Opinion.

14. Many health care education and other relevant programs (including those listed above) require clinical training at health care facilities. If a health care organization employs physicians that either (1) refer patients to different organizations to receive an abortion or (2) prescribe abortion-inducing pharmaceuticals or perform abortions, would the NDUS institution be required to terminate relations with that health care organization to receive Challenge Grant funds?

No. As noted in the last item, if no funds are paid from the institution to the organization, S.B. 2030 is not implicated. However, even if funds are paid as part of the agreement, those funds may either be paid pursuant to an exemption in statute for nursing programs or the UND School of Medicine and Health Sciences or as an “ordinary and neutral payment [] to support internships or other educational opportunities,” as permitted by the Attorney General’s Opinion.

15. In several NDUS institutions, nursing programs are one part of a larger school or program, such as the UND College of Nursing and Professional Disciplines. Does the exemption for nursing programs extend to the rest of the shared program or school? What of Nursing Education and similar programs, which involve nursing but also other disciplines?

The full exemption does not extend beyond programs which either fully or partially involve nursing, and would not extend, for example, to public health programs which do not involve a nursing component. However, as noted above, funds expended as an “ordinary and neutral payment [] to support internships or other educational opportunities,” are permitted related to those shared programs.

16. Who determines whether brochures or other materials are following the requirement that they give preference, encouragement, and support to normal childbirth? If this is to be a government employee, does this violate the first amendment’s bar on content-based speech determinations?

Under the language of the Attorney General’s opinion, the review point for such materials is at the point of contracting, and whether the agreement explicitly contemplates the participation in or sponsorship of a program which produces, distributes, publishes, disseminates, endorses, or approves materials that, between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. As a result, if brochures or other materials which are produced meet this standard, they would violate S.B. 2030 only if they are explicitly and contractually endorsed by the institution. Institutions should avoid actions which would result in the content-based restriction of materials to be produced by a private entity to avoid violations of the First Amendment’s bar on content-based restrictions of speech.

17. How does the third eligibility requirement affect NDUS’s affiliated foundations? Would the third eligibility requirement prevent an affiliated foundation from taking a gift from a health care organization that refers patients to an abortion provider, or that performs abortions itself?

Neither NDUS-affiliated foundations nor funds raised by NDUS-affiliated foundations are governed by S.B. 2030’s restriction.

Minutes of the University Senate Meeting
December 2, 2021

1.

The December meeting of the University Senate was held at 3:30 p.m. on Thursday, December 2, 2021, via Zoom Conference. Chair Cristina Oancea presided.

2.

The following members of the Senate were present:

Adjekum, Daniel	Jedlicka, Janet	Myers, Brad
Bartz, Jeremiah	Jendrysik, Mark	Newman, Robert
Brandt, Sonja	Johnson, Erika	Nonte, Stephen
Cherry Oliver, Emily	Jordan, Rachel	Oancea, Cristina
Chu, Qianli	Kalbfleisch, Pamela	Pedersen, Daphne
Clark, Travis	Karikari, Isaac	Peterson, Karen
Correll, Scott	Kehn, Andre	Petros, Tom
Cox, Paula	Kitzes, Adam	Redvers, Nicole
Dauphinais, Kirsten	Laguetta, Soizik	Reedy, Kaelan
Denny, Dawn	Legerski, Liz	Reissig, Brad
Dorafshan, Sattar	Liang, Lewis	Schill, Brian
Doze, Van	Light, Steven	Schlenker, Jared
Dutchak, Dawson	Lim, Howe	Shivers, Jed
Gjellstad, Melissa	Linder, Meloney	Wahl, Faith
Halcrow, Steven	Link, Eric	Walker, Stephanie
Helleloid, Duane	Liu, Jun	Weber, Bret
Hellwig, Beth	Mamaghani, Iraj	Wise, Richard
Henley, Amy	Matz, Adam	Worley, Deborah
Henneman, Emily	McGinniss, Michael	Xiao, Feng
Homstad, Stephanie	Mihelich, John	
Hume, Wendelin	Milavetz, Barry	
Iseminger, Colt	Munski, Douglas	

3.

The following members of the Senate were absent:

Armacost, Andy	Kostrzewski, Diana	Rundquist, Brad
Borowicz, Taylor	Kraus, Robert	Shea, Heather
Chew, Jack	Lian, Gracie	Spaeth, Andria
Hammond, Sean	Menard, Dominique	Tande, Brian
Hufford, Jordan	Orvedal, Casey	VanLooy, Jeffrey
Juntunen, Cindy	Perkins, Dexter	Wilson, Nick
Korsmo, Danielle	Rozelle-Stone, Rebecca	Zerr, Ryan

4.

Ms. Oancea called attention to the UND Bookstore survey open until December 15, 2021.

5.

Ms. Oancea called attention to the new landing page on Blackboard available January 4, 2022.

6.

Ms. Oancea stated there is no University Senate meeting in January 2022. The next meeting of University Senate will occur on February 3, 2022.

7.

Ms. Oancea reminded the University Senate of the Senate Committees' annual report deadlines:

Due Sept. 23rd (overdue): Compensation

Due Oct. 21st (overdue): Essential Studies, Honorary Degrees, Standing Committee on Faculty Rights

Due Nov. 18th (overdue): Legislative Affairs, Library Committee

Due Jan. 20th: Academic Policies and Admissions Committee

Due Feb. 17th: Administrative Procedures, Intellectual Property, Student Academic Standards

8.

The discussion on the future path of UND procurement was postponed until the February 2022 meeting.

9.

Mr. Millspaugh provided an update from the Council of College Faculties. There are some minor bylaw changes that will be occurring very soon. Past officers are very valuable to stay on as ex-officio members to aid new leadership. There is a faculty committee being formed to discuss administrator evaluation.

10.

Mr. Schill provided an update from Staff Senate. The 31 Days of Glory fundraiser just concluded and drawing will begin very soon. The staff mentoring program is being reengaged. There is also discussion about a staff volunteering program.

11.

Mr. Reedy provided a Student Government update. The Campus Safety Committee charter will be on the business agenda.

12.

Mr. Link talked about the funding from the state legislature - \$50 million to fund Merrifield/Twamley, \$10 million for Space Education and Research, \$5 million for the airport apron project, and \$2.1 million to purchase hyperbaric oxygen therapy equipment.

The Merrifield-Twamley renovation project will consume our lives for the next few years. Once Nistler Hall opens, the Merrifield residents will move to Gamble Hall. The administrative offices in Twamley will also have to move. Some moves are permanent, and some will be temporary. The floorplan for Merrifield-Twamley is in draft form. No final plans are set. The Office of Provost is the assigned owner to this project.

Please welcome Karina Knutson who joined academic affairs. She was a former employee at the Wellness Center.

There are 38% of the annual assessment reports that have not been submitted. This is a requirement of our HLC reaffirmation. Please turn them in as soon as possible.

There are two active dean searches - the School of Law and the School of Nursing.

The next executive leadership position to be hired is the leadership within the School of Graduate Studies.

There was a town hall today on the Covid-19 vaccine mandate.

There is good news on the enrollment front. Our fall 2022 admission applications are up 14% for new freshmen. Transfers are up 42%. And, graduate students are up 21%. Some spring registration areas are lagging.

Thank you everyone for the great work this semester.

13.

Quorum was established.

14.

Without objection, the minutes from November 4, 2021, University Senate meeting were filed.

15.

Ms. Oancea reported from the Senate Executive Committee in November. The SEC approved the November Curriculum Committee report. There are two Academic Policies and Admission Committee policy changes on the business calendar. There is a Faculty Handbook Sick Leave Policy update on the business calendar. The December 2021 graduation candidate list needs to be approved. Finally, the Student Senate has brought forward the request for a Campus Safety Committee.

16.

The 20 minute question and answer period began at 4:02. Mr. Jendrysik asked how much money is needed to be raised for the Merrifield-Twamley renovation and what will happen to Gamble Hall. Mr. Link stated we need to raise \$29M for the project. Mr. Link stated that Gamble would probably be demolished. Mr. Petros asked at what level with the School of Graduate Studies administration would be. Mr. Link stated that he will share after the job description is finalized. Ms. Legerski asked about the results of SB2030 legal interpretation. Mr. Link stated that the guidance from the attorney general office is not intended to restrict academic freedom and freedom of speech. Furthermore, there were no findings from a survey that we have internships in conflict with SB2030. We are in full compliance and can receive challenge grant funding. Ms. Oliver asked about student permission numbers. Mr. Correll detailed the difference between permission numbers and student specific permissions in Campus Connection. Student specific permissions allow for increased tracking and follow-up on overrides. It also reduces the need for students to enter a permission number. Mr. Kehn asked about the plan for Columbia Hall. Mr. Link stated he will defer to Mr. Shivers. Mr. Shivers stated that once we get all the renovations completed, Columbia should be decommissioned unless picked up by an outside entity. Mr. Milavetz asked if this is both parts of Columbia Hall. Mr. Shivers stated that we need to work with SMHS on how the research could be accommodated. The question period ended at 4:20pm.

17.

Ms. Oancea called attention to the annual report of the Faculty Handbook committee. Without objection, it was filed.

18.

Ms. Oancea called attention to the December 2021 University Senate Curriculum Report. Without objection, it was filed.

19.

Ms. Oancea called attention to the Student Specific Permission policy. Mr. Jendrysik moved to approve. Ms. Gjellstad seconded. Without discussion, the motion carried.

20.

Ms. Oancea called attention to the Non-Degree Admission Policy. Mr. Munske moved to approved. Mr. Milavetz seconded. The motion carried.

21.

Ms. Oancea called attention to the Faculty Handbook Sick Leave Policy update.

Mr. Milavetz moved to approved. Mr. Munske seconded. A discussion ensued. The motion carried.

22.

Ms. Oancea called attention to the Campus Safety Committee charter. Mr. Liang moved to approved. Mr. Newman seconded. The motion carried.

23.

Ms. Oancea called attention to the December 2021 Graduation Candidate List. Mr. Munske moved to approved. Mr. Liang seconded. The motion carried.

24.

Mr. Liang asked about the MWF classes. The committee is still working on it and gathering feedback.

Ms. Gjellstad asked about the implementation date for the new 24 non-degree credit hour policy. It will be Fall 2021, but current students can continue to 24 credits.

Mr. Petros asked about the document for MWF classes. It will be sent to all department chairs.

The meeting adjourned at 4:38pm.

Scott Correll, Secretary
University Senate

UNIVERSITY OF NORTH DAKOTA
SENATE MEETING ATTENDANCE RATES*
SENATE MEMBERSHIP**, FALL SEMESTER 2021

Ex-Officios	% of Meetings Attended	At-Large Senators	% of Meetings Attended	College Representatives	% of Meetings Attended	Student Representatives	% of Meetings Attended	Staff Representatives	% of Meetings Attended	SUMMARY	% of Meetings Attended
Andrew Armacost	75	Daniel Adjekum	75	Jeremiah Bartz	75	Taylor Borowicz	0	Paula Cox	100	Ex-Officios (16) At-Large Senators (30) College Reps (24) Student Reps (11) Staff Reps (3) Total Senators (84)	63
Scott Correll	100	Qianli Chu	100	Sonja Brandt	75	Jack Chew	0	Brian Schill	100		85
Beth Hellwig	75	Travis Clark	100	Emily Cherry Oliver	100	Dawson Dutchak	100	Andria Spaeth	50		83
Amy Henley	75	Dawn Denny	75	Kirsten Dauphinais	100	Jordan Hufford	0				30
Cindy Juntunen	25	Van Doze	100	Sattar Dorafshan	100	Danielle Korsmo	0				83
Diana Kostrzewski	0	Melissa Gjellstad	100	Sean Hammond	75	Gracie Lian	0				73
Robert Kraus	75	Steven Halcrow	75	Duane Helleloid	100	Dominique Menard	0				
Meloney Linder	75	Emily Henneman	75	Stephanie Homstad	100	Casey Orvedal	0				
Eric Link	75	Wendelin Hume	100	Janet Jedlicka	75	Kaelan Reedy	100				
Mike McGinniss	75	Colt Iseminger	100	Mark Jendrysik	100	Heather Shea	25				
John Mihelich	75	Rachel Jordan	100	Erika Johnson	50	Faith Wahl	100				
Brad Rundquist	75	Pamela Kalbfleisch	75	Isaac Karikari	100						
Jed Shivers	100	Soizik Laguette	100	Andre Kehn	100						
Brian Tande	0	Lewis Liang	100	Adam Kitzes	50						
Stephanie Walker	100	Steve Light	100	Jun Liu	75						
Joshua Wynne	0	Howe Lim	100	Barry Milavetz	100						
		Iraj Mamaghani	75	Brad Myers	75						
		Adam Matz	100	Robert Newman	100						
		Douglas Munski	75	Stephen Nonte	50						
		Cristina Oancea	100	Tom Petros	100						
		Daphne Pedersen	100	Brad Reissig	75						
		Dexter Perkins	0	Rebecca Rozelle-Stone	75						
		Karen Peterson	50	Nick Wilson	50						
		Nicole Redvers	100	Deborah Worley	100						
		Jared Schlenker	100								
		Jeffrey VanLooy	75								
		Bret Weber	50								
		Richard Wise	100								
		Feng Xiao	75								
		Ryan Zerr	75								

* Percentages based on four official meetings in Fall 2021 (9/2, 10/7, 11/4, and 12/2)

** Official Senate membership is 84

Source: Office of the Registrar (12/14/21)

Proposal: Change to UND Essential Studies Assessment Process

Date Initiated: April 2021

Date Approved by UND ES Committee: 12/13/2021

Date Approved by UND Assessment Committee: 12/28/2021

Submitted By: UND Essential Studies Committee: Brooke Solberg, Forrest Ames, Christopher Felege, Donovan Widmer, Julie Robinson, Craig Carlson, Jody Paulson, Thyra Knapp, Stephanie Homstad, Lori Robison, Karyn Plumm, Kristen Borysewicz, Scott Correll, Christina Fargo, Brad Rundquist, Tim Burrows, Danielle Korsmo, Dawson Dutchak, Kaelan Reedy

I. BACKGROUND

A. Current Process

1. Two of the six ES learning goals are assessed every three years.
2. Student artifacts related to the ES goals being assessed that year are collected from participating ES Capstone Courses, and sent to the Value Institute for assessment.
3. The Value Institute analyzes artifacts and returns assessment data/findings to UND.
4. Findings from the Value Institute are posted on the ES website for review

B. Limitations of Current Process:

1. Lack of consistent, applicable, and comprehensive data of UND and ES as a whole
 - a. Not assessing individual ES courses
 - b. Not representative of all areas/programs
 - c. Time gaps of years between assessments
 - d. Not comprehensive (only 100 artifacts can be sent to the Value Institute for each goal)
 - e. Current Value Institute offerings are not fully compatible with UND ES goals
2. Current assessment is being conducted by an outside entity instead of by the UND faculty
3. Cost and time delays with the Value Institute process
4. Lack of student engagement with and/or understanding of the ES Learning Goals being assessed (i.e., not linked to their course)
5. Consistent assessment may not be occurring in courses outside of participating Capstone courses
6. Limitations of current data and processes lead to challenges with conducting meaningful campus-wide conversations related to ES assessment

II. PROPOSAL CONSIDERATIONS & DEVELOPMENT

A. Major Considerations in Development of Proposal:

1. Addressing limitations of current process (see I.B above)
 - a. Failing to try to address identified limitations likely could lead to issues from a HLC standpoint
2. Keeping the workload realistic for involved faculty
 - a. Including having clearly defined expectations and instructions related to the process
3. Ensuring that data is collected, stored, distributed, and considered in a meaningful way
4. Trying to develop a process that is flexible and adaptable as needs change over time, so that minor changes needed can be imbedded without significant revision to the entire process
5. Trying to develop a process that help bring more emphasis to the ES Learning Goals involved
6. Ensuring that the new process would be feasible within the ES program and ES Committee framework

B. Proposal Development Process

1. ES Committee Members sought feedback from their representative colleges
2. Considerable input from UND Director of Assessment and Accreditation and ES Committee member, Tim Burrows, as it relates to HLC and university-wide assessment processes and needs
3. Ongoing discussions by the ES Committee

4. Consideration of assessment processes from other institutions
5. Collaborative work with the UND Assessment Committee
6. Collaborative work with 4 of the HLC executive team members (Brooke Solberg, Deb Worley, Ryan Zerr, Scott Correll)

III. PROPOSED ASSESSMENT PROCESS for ESSENTIAL STUDIES

We propose a two-stage assessment process that allows for consideration of both formative and summative assessment of the Essential Studies program.

Stage I: Formative, course-based assessment.

We propose to collect assessment information, by learning goal, using student materials that faculty are already collecting in their classrooms. When requests for validation or revalidation are made to the ES program, faculty are asked to identify the assignments, exams, projects, etc. they will use to assess the learning goal they have chosen for ES.

However, to create coherence across sections and departments, we will provide instructions for using the VALUE rubrics for the learning goal. This means that each semester, we will contact instructors who are teaching ES courses that have named the goal under review and remind them to conduct assessment with student materials from that course; we will also hold norming sessions (live and online) for faculty who are teaching a course with that learning goal. We will then collect assessment data directly from instructors on two learning goals per year (one per semester) via a brief qualtrics survey. This data will help us to understand both how students are doing broadly in various course levels across campus (e.g., 100/200- vs. 300/400-level courses) but also how they are performing in specific areas (an example is attached). This information will be shared with faculty teaching the courses to help them consider how they might improve student learning in this goal in their own courses. Additionally, in partnership with TTaDA, we will hold faculty debriefing and development sessions to better engage in closing-the-loop activities and to foster faculty development through the sharing of ideas about the ES learning goals and program.

Stage II: Summative, end-of-program assessment.

At the end of the first cycle of formative, course-based assessment (in year four after all six goals have been assessed), we commit to reviewing this process and determining how we might address any summative or end-of-program assessment needs. The Essential Studies Committee will continue to develop these plans, and we believe that feedback gathered from faculty during our ES debriefing and development sessions will be helpful in guiding this process.

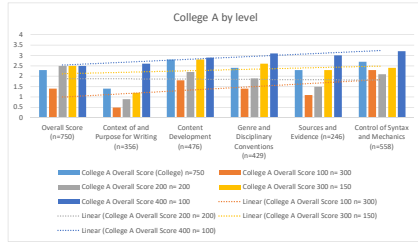
Colleges and UND Written Communication

	Overall Score (College A) n=750	Overall Score (College B) n=750	Overall Score (College C) n=750	Overall Score (College D) n=750	Overall Score (College E) n=750	Overall Score (College F) n=750	Overall Score (College G) n=750	Overall Score UND n=5250
Overall Score	2.3	2.7	2.5	2.4	3.1	2.1	2.6	2.7
Context of and Purpose for Writing	1.4	2.2	1.8	1.9	2.4	2.6	1.7	2.2
Content Development	2.8	2.6	2.3	2.6	2.6	2.8	3.1	2.6
Genre and Disciplinary Conventions	2.1	2.8	3.4	3.2	2.7	2.9	3.1	3.1
Sources and Evidence	2.3	2.7	2.2	1.9	3.5	3.1	2.5	2.7
Control of Syntax and Mechanics	2.7	2.9	2.4	2.6	3.2	3.1	2.8	2.9
Lowest Scores								
Highest Scores								

College A

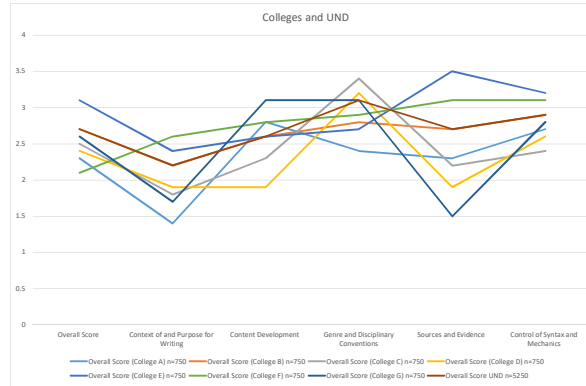
	Overall Score (College) n=750	Overall Score n= 300	Overall Score 200 n= 200	Overall Score 300 n= 150	Overall Score 400 n= 100	Overall Score 400 n= 25
Overall Score (n=750)	2.3	1.4	2.5	2.5	2.5	2.5
Context of and Purpose for Writing (n=356)	1.4	0.5	0.9	1.2	2.6	2.6
Content Development (n=476)	2.8	1.8	2.2	2.8	2.9	2.9
Genre and Disciplinary Conventions (n=429)	2.4	1.4	1.9	2.6	3.1	3.1
Sources and Evidence (n=246)	2.3	1.1	1.5	2.3	3	3
Control of Syntax and Mechanics (n=558)	2.7	2.3	2.1	2.4	3.2	3.2

Now we can have targets at University, College, and Course levels. Individual variables can be compared over time to look for statistical differences. To have a 95% confidence level with a +/- 3, we need a sample size of 980 participants



Colleges and UND Written Communication

	Overall Score (College A) n=750	Overall Score (College B) n=750	Overall Score (College C) n=750	Overall Score (College D) n=750	Overall Score (College E) n=750	Overall Score (College F) n=750	Overall Score (College G) n=750	Overall Score UND n=5250
Overall Score	2.3 (n=750)	2.7 (n=750)	2.5 (n=750)	2.4 (n=750)	3.1 (n=750)	2.1 (n=750)	2.6 (n=750)	2.7 (n=5250)
Context of and Purpose for Writing	1.4 (n=356)	2.2 (n=356)	1.8 (n=356)	1.9 (n=356)	2.4 (n=356)	2.6 (n=356)	1.7 (n=356)	2.2 (n=2492)
Content Development	2.8 (n=476)	2.6 (n=476)	2.3 (n=476)	2.6 (n=476)	2.6 (n=476)	2.8 (n=476)	3.1 (n=476)	2.6 (n=3332)
Genre and Disciplinary Conventions	2.4 (n=426)	2.8 (n=426)	3.4 (n=426)	3.2 (n=426)	2.7 (n=426)	2.9 (n=426)	3.1 (n=426)	3.1 (n=2982)
Sources and Evidence	2.3 (n=246)	2.7 (n=246)	2.2 (n=246)	1.9 (n=246)	3.5 (n=246)	3.1 (n=246)	2.5 (n=246)	2.7 (n=1722)
Control of Syntax and Mechanics	2.7 (n=558)	2.9 (n=558)	2.4 (n=558)	2.6 (n=558)	3.2 (n=558)	3.1 (n=558)	2.8 (n=558)	2.9 (n=3906)



THE CONSTITUTION OF THE NORTH DAKOTA UNIVERSITY SYSTEM'S COUNCIL OF COLLEGE FACULTIES

The faculties of the campuses in the North Dakota University System, to organize for their mutual benefit a structure within which they may:

- (a) identify the interests shared among System faculty;
- (b) identify interests in teaching, research, and service shared by faculty appointed to institutions with like roles and missions; and compare them with interests not necessarily shared by faculty appointed to institutions with differing roles and missions;
- (c) work together to find ways to agree regarding their interest as System faculty;
- (d) assist the System and the State Board of Higher Education in their duty to improve higher education by ministering to the needs and proper development of each institution, in harmony with the best interests of the people of North Dakota;
- (e) assist the System in its duties to coordinate and correlate the diverse work in the different institutions and to develop cooperation among the institutions;
- (f) reach agreement on, and identify disagreement in, the views of faculty matters of interest to or pending before the System and the State Board of Higher Education;
- (g) communicate their agreement or disagreement to the System and the Board in a manner which respects and presents any disagreement as clearly as it reports agreement;
- (h) communicate to the System and the Board, through the faculty representative to the Board, the agreement of faculty at institutions with like roles and missions, as well as issues with which faculty at other institutions are not in accord;
- (i) proceed in a manner that informs the System and the Board of the diversity of views on issue(s) so that the Board might perform its governing role for the benefit of the entire system;

do establish this Constitution of the North Dakota University System.

I

NAME

The name of this organization shall be North Dakota University System Council of College Faculties referred to hereafter as the Council.

II

PURPOSE

The purpose of the Council shall be to foster quality in scholarly activities, teaching, and learning, and to consider all issues and conditions of employment which apply to the faculty at all campuses of the system. Furthermore, the Council's representative to the

State Board shall articulate these concerns to the SBHE, the System, and other organizations

III

MEMBERSHIP

- (a) The Council membership shall consist of faculty representatives from each campus as selected by procedures defined by and for each campus in the System. The representative members and alternates from each institution shall have full rights to discussion and deliberation. An alternate may vote only in the absence of a member from that campus. No proxy votes will be allowed.
- (b) Each representative shall serve a three-year term.
- (c) Representatives must act as a liaison between the Council and their respective campus faculty governance organizations.
- (d) The number of representatives shall be based on the percentage of the total System faculty at a given campus as established by the SBHE FTE faculty allotment.
 - 0.0 to 4.00% one representative
 - 4.01 to 10.00% two representatives
 - more than 10.00% three representatives

Adjustments to the number of representatives shall be made annually based on SBHE data as of April 15 of each year. Representation shall be certified as an agenda item of the May meeting. Representatives will assume duties at the first meeting following September 1 of each year.

IV

MEETINGS

The Council must meet at least three times throughout the academic year, including a meeting in May. Additional meetings may be called as deemed necessary by the President of the Council or by a majority vote of the members. Meetings will be conducted according to Robert's Rules of Order, the latest addition. Fifty (50) percent of the membership plus one (1) shall constitute a quorum.

V

OFFICERS

The elected officers shall consist of a president, a vice president, a secretary, a parliamentarian, and a representative to the SBHE. ~~Election of officers for the next academic year will occur at the April meeting.~~ Election of the president, vice president, secretary and parliamentarian for the next academic year will occur at the April meeting. The election of the CCF representative to the State Board of Higher Education will occur at the March meeting in order to comply with SBHE Policy 30.29. The terms of office shall be for one year commencing

June 1st, except for the representative to the SBHE, whose term shall be for one year commencing July 1st.

Section A. President

1. The President shall preside at Council meetings and otherwise act as the chief executive officer of the council

Section B. Vice President

1. The Vice President shall preside at meetings in the absence of the president, act as liaison to the Academic Affairs Council, and carry out duties as assigned.

Section C. Secretary

1. The Secretary shall record and maintain a file of minutes of the Council meetings and distribute copies within two weeks after each meeting to all Council members, SBHE members, the Chancellor, and the members of the Chancellor's Cabinet. The minutes will be placed on the NDUS website within one month after approval at the next Council Meeting.

2. The Secretary shall keep a record of the membership and activities of the Council.

Section D. Parliamentarian

1. The Parliamentarian shall advise the Council on parliamentary procedure, and act as liaison to the Student Affairs Council.

Section E. Representative to the SBHE

1. The Council shall be the organization identified in Chapter 15-10 "The State Board of Higher Education" Section 15-10-02.2 "Membership of state board of higher education-Advisor" of the North Dakota Century Code that shall select the SBHE representative.

2. The Representative to the SBHE shall report to the SBHE the actions and concerns of the Council as agreed to by the Council.

3. The Representative to the SBHE shall report to the Council the actions and concerns of the SBHE.

Section F. Vacancies

1. Vacancies occurring during a term of office shall be filled by a vote at the next scheduled meeting after the vacancy occurs.

Section G: Ex-Officio members.

1. Immediate past officers of the CCF, unless currently serving as elected delegates to the Council, may serve as ex-officio officers of the Council.

VI

QUALIFICATIONS, NOMINATION AND ELECTION OF OFFICERS

Section A. Qualifications

1. Any member of the Council shall be eligible to hold any office.

2. Any member completing his or her term on the Council remains eligible to serve as

representative to the SBHE for two years following the end of that Council term.

Section B. Nominations

Nominations shall be made from the floor at any meeting by March 15 or in writing no later than March 15th.

Section C. Election

The election of officers will be by majority vote of the members voting at the April meeting. If more than two candidates are competing for an office, and no one receives a majority, a run-off between the top two will be held at the same meeting.

VII

RATIFICATION AND AMENDMENTS

Section A. Ratification

This constitution must be approved by at least two-thirds (2/3) of the members of the Council of College Faculties present and voting. After approval by the Council of College Faculties, this constitution must be submitted to the faculty governing bodies in the North Dakota University System and ratified by two thirds (2/3) of those bodies. After consideration and approval by the State Board of Higher Education, this constitution shall become effective immediately.

Section B. Amendments

Amendments to the constitution may be introduced by any member of the Council at any regularly scheduled meeting. Proposed amendments shall be distributed to all members of the Council at least 30 days before the meeting at which they are to be considered.

Amendments must be approved by at least two-thirds (2/3) of the members present and voting of the Council. After approval by the Council, amendments must be submitted to the faculty governing bodies in the North Dakota University System and approved by two-thirds (2/3) of them. After consideration and approval by the State Board of Higher Education, amendments shall become effective immediately.

VIII

The council may establish by-laws consistent with this constitution.

BY-LAWS

Section I. Council Agenda

The President, with advice from officers and members, will set an agenda before each

scheduled meeting. The agenda must be distributed to all campus representatives, SBHE members, the Chancellor, and the Chancellor's Cabinet at least one week in advance of the meeting.

Section II. Council Functions

1. Liaisons

The Council shall establish formal liaisons with the SBHE, Academic Affairs Council, Chancellor's Cabinet, and other groups deemed appropriate by the Council.

2. Recall and Initiative

Any motion passed by the Council may be rescinded by a vote of two-thirds (2/3) of the campus faculty governance organizations. Motions may be placed on the Council agenda for consideration by a two-thirds (2/3) vote of campus faculty governance organizations.

3. Faculty Compensation Committee

A. Purpose:

The Faculty Compensation Committee shall consult with the Chancellor on faculty compensation issues.

B. Membership:

The committee shall consist of the Executive Board of the Council of College Faculties (president, vice-president, secretary, parliamentarian and SBHE representative), a faculty member from each of the NDUS Campuses, and representative of the NDUS Staff (Vice Chancellor for Administrative Affairs/CFO and Director, Human Resources) as ex-officio, nonvoting members. The campus representative faculty member will be selected by procedures defined by and for each campus in the system.

C. Responsibilities:

1. The committee will assist the Chancellor with a study of faculty compensation and the findings.
2. The committee will submit recommendations to the Chancellor and the State Board of Higher Education before submission of the biennial budget request.
3. The committee will present its recommendation to the Council of College Faculties, the Chancellor, and any other person or group deemed necessary.
4. The responsibilities of this committee include all direct and indirect facets of faculty compensation.)

Section III. Amendments to By-Laws

Amendments to the By-Laws may be introduced by any member of the Council at any regularly scheduled meeting. Proposed amendments shall be distributed to all members of the Council at least 30 days before the meeting at which they are to be considered. Amendments must be approved by two-thirds (2/3) of the members present and voting.

History

- Approved by the North Dakota University System Council of College Faculties February 12, 1992. Ratified by the institution senates of the campuses in the North Dakota University System by May 1992.
- Amended January 26, 1999, by unanimous consent of the CCF and ratified by the campuses by April 20, 1999. Approved by the SBHE April 29, 1999.
- Amended February 2008 by unanimous consent of the CCF and ratified by the campuses in September of 2008. Approved by the SBHE ????
- Amended January 19, 2021 by unanimous consent of the CCF and ratified by the campuses by March 30, 2021. Approved by the SBHE

The following changes were suggested by the Equal Opportunity & Title IX Office and provided to the Faculty Handbook Committee. The committee received these suggested changes from Beth Valentine, Equity Specialist, in December and approved of them at the committee's January meeting.

Changes include updates to various sections of the handbook (summarized below followed by tracked changes for specific sections on the following pages);

- Updates to gendered language, will change "his or her" to "their" throughout all sections of the handbook.
- Added reporting responsibilities held under UND policies relating to discrimination, harassment, and sexual misconduct under *Section I: Responsibilities and Privileges; 1. Faculty Responsibilities* and *2. Administrator Responsibilities*.
- Removal of outdated language under *III. Appointments; 1. Initial Appointment Process*.
- Additional language added under *Section V: Rules and Procedures for Faculty Appointment, Promotion, Tenure and Evaluation*. If tenure is a pregnancy-related adjustment or a disability-based workplace accommodation, then EO & Title IX and/or HR & Payroll Services should be consulted. Intent of these changes is to ensure the same procedures apply to all pregnancy/disability related requests and that obligations are upheld under Title IX, PDA, and ADA.
- Under *Section VIII: Faculty Grievances*, a new section has been added at the beginning to make it clearer this process doesn't apply to Title IX sexual harassment (instead addressed by UND's Title IX Sexual Misconduct Policy).
- Updates have been made to the procedure for requesting disability-based workplace accommodations as well as information on sexual misconduct policies under *Section II: Personnel Information; I: Nondiscrimination*.
- A clarification has been added under *Section II: Personnel Information: IV: Open Government Requirements* noting that Title IX records are exempt from the North Dakota disclosure law and are confidential.
- Updates were added under *Section III: Teaching Policies and Procedures: subsection V: Student Absences* concerning Title IX obligations related to student attendance and participation.

Section I: Responsibilities and Privileges

I. Responsibilities of Faculty and Administrators

1. Faculty Responsibilities

Along with academic freedom and tenure, all faculty members recognize certain concomitant responsibilities to their students, their colleagues, to the University, and to the state and broader community.

To students, faculty members have a responsibility for:

1. Keeping abreast of current developments in their disciplines, continuously updating course content, improving the method of instruction, and regularly evaluating the effectiveness of their instruction;
2. Maintaining in their classrooms and elsewhere an intellectual and attitudinal environment in which students are stimulated to learn, to ask questions, and to explore alternative approaches to problems;
3. Respecting students as persons, being concerned about their progress, and being willing to hear their points of view without prejudice;
4. Informing students at the beginning of each semester of the objectives of each course and organizing the method of instruction and time allocation so as to meet those objectives;
5. Informing students as early as possible concerning term paper and other requirements for the course and the basis on which grades will be determined. Examinations and papers which are used for determining a course grade should be available to students for inspection and discussion. Students' grades should be based on recognized academic standards. Students should also be informed early in the course of the policy concerning attendance;
6. Holding classes and examinations as scheduled and, in the event of necessary absence, informing the students in advance of changes in schedule and making suitable alternative arrangements;
7. Being readily available to students for individual conferences relating to course work or other matters of concern and interest to students. Faculty should post a schedule indicating times when they will be available for consultation.

7-8. Reporting all potential incidents of sexual misconduct against students, unless they have a license requiring confidentiality and are acting in that professional role

With respect to their colleagues, faculty members are responsible for:

1. Avoiding conduct which intentionally and substantially obstructs or disrupts teaching or other lawful activities on the University campus;
2. Respecting the rights of free inquiry and expression of opinion by their colleagues in accordance with the University's statement on academic freedom;
3. Acknowledging in their publications, the contribution which colleagues have made to their research and other endeavors;
4. Evaluating or commenting fairly and objectively on the work of colleagues when peer evaluation is required for the purposes of promotion, curriculum assessment, and the like.

With respect to the University, faculty members have a responsibility for:

1. Participating in the committee work and other channels of self-governance on departmental, college, and University levels;

2. Observing the regulations of the University, which are designed to promote freedom for teaching and research, and participating through orderly means in seeking modification in these regulations when these are considered inappropriate;
3. Indicating that when they are speaking as a private person they are not speaking for or representing the University.

Faculty members are encouraged to participate in endeavors for improvement of the economic, social, and cultural life to the community, especially when they have an expertise which may make their contribution particularly valuable, and when such a contribution can be made without interfering with their primary obligations for teaching and scholarly endeavor.

Approved: UND Senate, 11-04-71

SEE ALSO: UND Senate Minutes, 11-02-89 , pp. 3337-3341 (Guidelines on Misconduct in Scholarly Activities), UND Faculty Handbook, [II-5.6](#) (Ethical Conduct in Research, Scholarship, and Creative Activity)

2. Administrator Responsibilities

The term "administrator" as used in this statement applies to the following positions at the University of North Dakota: The President, the vice-presidents, the deans, the department chairs and other directors of University programs and functions. The Statement on Faculty Responsibilities, adopted by the University Senate on November 4, 1971, applies equally to those administrators who exercise teaching responsibilities and/or hold faculty rank.

The University administrator has responsibilities in most of the following areas: Financial administration, faculty and personnel administration [\(including obligations as a supervisor/manager to report all information known about potential sexual harassment, discrimination, or violence in the workplace to the Title IX Coordinator and to support workplace accommodations\)](#), administration of the educational program, relationships with students, responsibilities as a teacher, responsibilities with [his or hertheir](#) colleagues for the committee work of the University, the promotion of extracurricular activities within the area of [his or hertheir](#) concern, and the provision of services to [his or hertheir](#) profession and to the public. In order to discharge these responsibilities, two essentials must prevail: The administrator has the responsibility for defining in writing and publishing where appropriate the scope of work and the duties of those who are responsible to [him or herthem](#). Authority to discharge these duties must be commensurate with the responsibilities assigned.

Each administrator with faculty status continues and maintains (1) [his or hertheir](#) responsibilities as a teacher and (2) [his or hertheir](#) awareness of the nature of the student body and of the faculty's pedagogic concerns. Each administrator with faculty status should teach or advise as appropriate.

The University administrator should adhere to the following principles of democratic administration:

1. Respect for individuals
2. Faith in the power of human intelligence to solve problems
3. The right of each individual affected by policy formation or alteration to have an equitable part in the determination of that policy
4. The right to act through [his or hertheir](#) chosen representatives
5. The right to equality of opportunity

6. The exercise of fairness
7. The right of each individual to appeal decisions and actions affecting ~~him or her~~them and the right of the individual to be informed of avenues of appeal

In the exercise of these basic principles, the administrator should nurture an atmosphere of mutual trust and honesty based on good communication.

The administrator also has a unique responsibility to keep abreast of the developments in ~~his or her~~their administrative field and to exercise leadership, which encourages innovation and the development of receptivity to new ideas. As a leader the administrator functions within ~~his or her~~their group as its spokesperson, harmonizer, planner, executive, educator, and symbol of its ideals.

Approved: UND Senate, 03-07-91

3. Communication Proficiency [No Changes]

II. Oath for Teachers [No Changes]

III. Appointments

Recommend consulting with HR to ensure the processes here are current and/or removing this section.

IV. Faculty Promotion, Tenure, and Evaluation Guidelines [No Changes]

V. Rules and Procedures for Faculty Appointment, Promotion, Tenure, and Evaluation

1. Appointment [No Change]

2. Annual Review [No Change]

3. Promotion and Tenure

A. Time in Rank [No Change]

B. Mid-Point Review of Probationary Faculty [No Change]

C. Extending the Tenure Clock

Extensions or waivers of the six-year probationary period for tenure may be granted in exceptional and extenuating circumstances identified in University policy or pursuant to applicable law that may include ~~maternity or paternity-parental~~ leave, appropriate accommodations for faculty with disabilities, or other extraordinary circumstances, such as family emergency or extended illness (SBHE 605.1.3.c). Such exceptions must be approved in writing by the Provost or, for the SMHS, the VPHA. The Equal Opportunity & Title IX Office must be consulted on extensions arising from

pregnancy or pregnancy-related conditions. Human Resources & Payroll Services must be consulted on extensions arising from a disability.

The purpose of an extension is to provide additional time to meet the standards expected for tenure because of exceptional and extenuating circumstances that substantially impede the faculty member's progress during the probationary period.

A faculty member should apply for an extension as soon as it becomes clear that an extenuating circumstance has substantially impeded the faculty member's progress toward tenure in aspects that clearly can be specified. A request for an extension of the probationary period of six years of continuous academic service should be initiated within a reasonable period, not to exceed six months, of the occurrence of the circumstances on which the request is based. Above all, absent extraordinary circumstances, the faculty member must not wait until the time of a tenure application to make such a request based on past circumstances. In any event, an extension request must be made no later than August 15 preceding the faculty member's final probationary year (i.e., the year in which the faculty member would be required to apply for tenure). Extensions of the probationary period may not exceed two years in total.

Requests for extension should not be made prematurely, and will not be accepted, on the basis of speculation about how challenging or demanding circumstances might affect progress toward tenure. Clear and convincing evidence must be provided of how the circumstances have impeded or will impede the faculty member's progress, and the request must clearly outline the specific aspects of the faculty member's productivity that have been or will be substantially impeded by exceptional and extenuating circumstances.

A. Criteria

Requests to extend the probationary period will be approved if they are deemed to be in the interest of the University and if they are judged to be:

- i. Fair to the faculty member making the request (taking into account the nature of the extenuating circumstances and the clear and convincing evidence that the circumstances substantially impeded the faculty member's productivity in specific ways),
- ii. Consistent with applicable standards and expectations for faculty productivity in rank, and
- iii. Equitable with regard to standards and practices generally applicable to other candidates for tenure in the University.

Exceptional circumstances may include, but are not limited to:

- i. Parental responsibilities relating to gaining custody of a child, whether by birth, adoption, or other means
- ii. Extended illness, disability, care of an immediate family member, and other events that would qualify for leave under the federal Family and Medical Leave Act of 1993 (whether or not they result in the faculty member taking FMLA leave)
- iii. Other personal or family emergencies.

B. Procedures

The Provost's or VPHA's office will make available to Deans and Chairs a standard template for extension requests. A faculty member's extension request must be submitted in writing and include the following information:

- i. Date of appointment and required tenure year based on appointment (i.e., what will be the faculty member's sixth year of service in which a tenure application ordinarily would be required)
- ii. Identification of exceptional circumstances on which the request is based
- iii. Date(s) of relevant events comprising the circumstances
- iv. Explanation of how the circumstances substantially impeded the faculty member's progress toward tenure, including an outline of any specific activity that was impeded in each area of faculty obligation
- v. Identification of the specific activities toward tenure the faculty member expects to accomplish during the period of extension
- vi. Curriculum vitae
- vii. Original LOU upon hire and most recent faculty contract; and
- viii. Last evaluation by Department Chair and School/College.

Unless requesting an extension as a workplace accommodation, the faculty member must submit the extension request to the Department Chair. The Chair shall forward the request to the Dean, along with the Chair's written recommendation, with explanation, as to whether the request should be granted. The Dean shall forward the request and Chair's recommendation, along with the Dean's written recommendation, to the Provost or, for the SMHS, the VPHA. The Provost or VPHA will make the final determination as to whether the request is granted.

Requests for tenure extensions related to a disability must be requested through Human Resources & Payroll Services and will be reviewed according to the Workplace Accommodation Policy in collaboration with the relevant Chair, Dean, and Provost/VPHA.

Requests for tenure extensions related to pregnancy or a pregnancy related condition can be initiated with the Equal Opportunity & Title IX Office, and decisions relating to such a request will be made by the relevant administrators in consultation with the Equal Opportunity & Title IX Office.

If approved by the Provost or VPHA, the Chair shall document the approval, the period of the extension and its effect upon the length of the probationary period, and a revised tenure plan for the faculty member. The faculty member will sign this document prior to implementation of the extension. The denial of the extension may be appealed through regular faculty grievance procedures.

D. External Reviews [No further changes in V]

VI. Academic Freedom

1. General Principles: [No Change]

2. Faculty:

Faculty members are entitled to full freedom in research and in the publication of results, subject to the adequate performance of their other academic duties. They are also entitled to freedom in lecturing or conducting demonstrations in their subject or field of competence. As a result, no faculty member may face adverse employment action for classroom speech unless the speech is not reasonably germane to the subject matter of the class as broadly construed and comprises a substantial portion of classroom instruction. As a general rule, faculty shall not face discipline or adverse employment action based on classroom speech unless such speech violates other institutional policies or procedures, such as the Discrimination and Harassment Policy or the Title IX Sexual Misconduct Policy.

Faculty members are entitled, as any other member of the community in which they live, to establish membership in voluntary groups, to seek or hold public office, to express their opinions as individuals on public questions and to take action in accordance with their views. Cognizant of their responsibilities to their profession and to their institution, faculty accept certain obligations; they should attempt to be accurate, to exercise sound judgment and respect the rights of others to express opinions. They must make clear that their actions, their statements, and their memberships do not necessarily represent the views of the academic community. If there are controls to be exercised over faculty members, they are the controls of personal integrity and the judgment of the colleagues.

3. Students: [No further changes to VI]

VII. Political Activities [No Change]

VIII. Faculty Grievances

1. Title IX Sexual Harassment

None of Section VIII. Faculty Grievances shall apply to conduct by a faculty member that is alleged to constitute sexual harassment under Title IX of the Education Amendments of 1972, which is governed by SBHE Policy 520. Behavior alleged to constituted sexual harassment under Title IX will be addressed solely within UND's Title IX Sexual Misconduct Policy.

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1. Standing Committee on Faculty Rights [No further changes to VIII]

IX. Resignations [No Changes]

Section II: Personnel Information

I. Nondiscrimination

1. Notice of Nondiscrimination [No Change]

2. Equal Employment Opportunity and Affirmative Action

A. Nepotism [No Change]

B. Request for Disability Accommodation Process

~~An employee with a disability who needs an accommodation in order to perform the essential functions of the employee's position may request an accommodation by submitting an accommodation request form. The employee, employee's supervisor and the designated Human Resources Manager will then engage in an interactive process to determine if a reasonable accommodation is available. Medical information may be needed to determine and identify the effective accommodation. All medical information is kept confidential and separate from personnel files. For more information, please contact the Assistant Vice President for Equal Opportunity & Title IX at 777.4171. An employee with a disability who needs an accommodation in order to perform the essential functions of the employee's position must notify their supervisor. An accommodation request form must be completed and submitted to the supervisor who will then submit the form to the Equal Employment Opportunity/Affirmative Action Office. Medical information may be needed to determine and identify the effective accommodation. All medical information is kept confidential and separate from personnel files. For more detailed information, please contact the director of equal employment opportunity/affirmative action at 777.4171.~~

The North Dakota Division of Vocational Rehabilitation also is available for assistance to disabled persons. Section 504 of the Rehabilitation Act of 1973 requires that complaint procedures be made available to qualified individuals who meet eligibility requirements for receipt of services.

Responsible Office: ~~UND Equal Employment Opportunity/Affirmative Action~~ Equal Opportunity & Title IX

Related Information

- [UND Accommodation Request Form](#)
- [Workplace Disability Accommodations Policy](#)

Commented [VB1]: Update hyperlink to <https://campus.und.edu/equal-opportunity/request-accommodation.html>

Commented [VB2]: Add hyper link to <https://und.policystat.com/policy/7125865/latest/>

3. Sexual Harassment

UND prohibits sexual harassment and retaliation against a person filing a sexual harassment complaint. Sexual harassment and retaliation prohibited by Title IX of the Education Amendments of 1972 and the related regulations shall be governed by SBHE Policy [520](#).

~~Questions concerning specific situations or incidents should be directed to the Assistant Vice President for Equal Opportunity & Title IX. Reports of sexual harassment and sexual violence are addressed in UND's Sexual Misconduct Policy and/or Title IX Sexual Misconduct Policy. Following a grievance process and a determination of responsibility for a policy violation, the accused employee(s) may be disciplined, including termination from the University. Questions concerning specific situations or incidents should be directed to the director of equal employment opportunity/affirmative action. Grievance procedures for complaints of discrimination are outlined in the Administrative Manual and in a brochure, which is available from the Affirmative Action Office.~~

Following an investigation and a finding of sexual harassment, the employee(s) accused of sexually harassing another may be disciplined, including termination from the University.

Responsible Office: ~~UND Equal Employment Opportunity/Affirmative Action~~Equal Opportunity & Title IX Office

Related Information

- [UND Title IX Sexual Misconduct Policy](#)
- [UND Sexual Misconduct Policy](#)
- [SBHE Policy 520 - Title IX - Sexual Harassment](#)
- ~~UND Complaints of Discrimination/Harassment Policy and Procedures~~
- ~~UND Guidelines on Discrimination Because of Sex~~
- ~~SBHE Policy 603.1 - Harassment~~
- [NDCC 14-02.4-01 – State policy against discrimination](#)

A. Consensual Relationships

UND expressly prohibits sexual harassment and strives to maintain a safe and professional environment for all students, staff, and faculty to work, study, and live. Consensual relationships in which one individual has direct or indirect authority over the other can create real or perceived conflicts of interest and favoritism and can result in claims of sexual harassment.

The University of North Dakota discourages consensual relationships between employees, employees and students, or student employees when one individual in the relationship has direct or indirect authority over the other. If parties engage in or have engaged in a consensual relationship, the person with direct or indirect authority is obligated to report the relationship to their department head or supervisor immediately. A plan to manage or eliminate conflicts of interest and mitigate the adverse effects on the involved parties and others will then be implanted, which all involved parties must adhere to.

The University of North Dakota discourages consensual relationships, i.e., amorous, romantic, or sexual relationships, between faculty and students, staff and students, supervisors and subordinates, and students who have an authority relationship over other students. This policy is in effect when one individual has a control, power, authority, or responsibility position over another. UND expressly prohibits any form of sexual harassment of employees and students when a previous consensual relationship ceases to exist or such a relationship is rejected by one of the parties.

If the parties do engage in a consensual relationship as defined above, the person in the authority position is obligated to report the relationship to his or her department head or supervisor immediately. Failure to report the relationship or any significant delay in reporting may be cause for disciplinary action. Documentation of the reporting and any subsequent actions taken by the department head or supervisor, such as advising the parties of the potential for sexual harassment charges if the relationship ends, is required.

Responsible Office: ~~UND Equal Employment Opportunity/Affirmative Action~~Equal Opportunity & Title IX Office

Related Information

- [UND Consensual Relationships Policy](#)

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- [UND Sexual Misconduct Policy](#)
- [UND Title IX Sexual Misconduct Policy](#)
- [UND Complaints of Discrimination/Harassment Policy and Procedures](#)
- [SBHE Policy 603.1 – Harassment](#)

II. Grievances

The University of North Dakota (UND/University) believes that providing a positive employment environment for faculty and other employees is vital to the mission of the University. An important part of that environment is the adoption of fair and clear procedures for handling and resolving faculty grievances arising out of the employment relationship.

The policies of the State Board of Higher Education (SBHE) distinguish between two types of faculty grievances. One type is specifically limited to a grievance resulting from UND's decision to dismiss, terminate, suspend, non-renew, or sanction the faculty member. The procedures for resolving these grievances are governed by SBHE policies 605.3 and 605.4. These policies, as well as their implementation at UND, can be found in Section I of the UND Faculty Handbook.

Grievances related to discrimination are not covered in this section and should be addressed through [UND's Discrimination and Harassment Policy, Sexual Misconduct Policy, and Title IX Sexual Misconduct Policy, as appropriate, -and the Office of Equal Employment Opportunity/Affirmative Action.](#)

[All other grievances will be addressed according to the procedures below.](#)

This section shall not apply to conduct by a faculty member which is alleged to constitute sexual harassment under [Title IX of the Education Amendments of 1972 and](#) is governed by SBHE Policy [520.](#)

1. Scope and Definitions [No further changes to II]

III. Personnel Files [No changes]

IV. Open Government Requirements

1. Open Meetings and Records

North Dakota has "sunshine laws," which make all government records and meetings open to the public unless a specific law authorizes records to be withheld or a meeting to be closed. Anyone has the right to attend meetings of a public entity or to access and obtain copies of the entity's records, regardless of where they live. These laws apply to all state and local government agencies that are supported by or expending public funds, including the University of North Dakota.

The North Dakota Attorney General publishes manuals and guides for open records and open meetings, which can be found at the following website: <https://attorneygeneral.nd.gov/open-records-meetings/manuals-and-guides>. If a faculty member has any questions regarding open records or open meetings, the faculty member should contact the Office of General Counsel.

[Pursuant to NDCC 44-04-18.28, Title IX records are exempt records under North Dakota law. Furthermore, such records are confidential pursuant to Title IX.](#)

Responsible Office: Office of General Counsel
Related Information

- [North Dakota Attorney General Website, Open Records and Meetings](#)
- [NDCC 44-04 Duties, Records, and Meetings](#)

V. Outside Activities and Increased Income for Faculty and Administrators [No Changes]

VI. Salary and Compensation

1. Salary Administration Policy for Faculty Employees [no change]

2. Pay Transparency

The University of North Dakota will not discharge or in any other manner discriminate against employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceedings, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the University's legal duty to furnish information. [If you have any questions or feel that you have been discriminated against, please contact the Equal Opportunity & Title IX Office at 701.777.4171 or \[UND.EO.TitleIX@UND.edu\]\(mailto:UND.EO.TitleIX@UND.edu\).](#)

Responsible Office: Human Resources [& Payroll Services](#) / [Equal Employment Opportunity/Affirmative Action](#)
~~Related Information~~ [Equal Opportunity & Title IX](#)

- [UND Salary Administration Policy \(contact Human Resources\)](#)

3. Compensation [No further changes to VI]

VII. Benefits [No further changes to Section II: Personnel Information]

Section III: Teaching Policies and Procedures

I. Class Schedules and Teaching Assignments [No Changes]

II. Course Syllabi [No Changes]

III. Student Advising, Office Hours [No Changes]

IV. Size of Classes [No Changes]

V. Student Absences

1. Policy on Student Attendance and Participation

Attendance and participation in class activities are considered integral parts of a university education. It is University policy that attendance in classes is expected of all students. While attendance is necessary to demonstrate competence via participation in some classes, attendance itself is not a measure of competence and therefore, shall not be used as a criterion for evaluation. Students' grades shall be based on recognized academic standards, e.g., scholarly achievement and examination performance. Faculty are encouraged to find appropriate ways to reflect in their grading the quality of participation and contributions of students to their classes. Students shall be informed by their instructors during the first week of classes of the criteria to be used in assigning grades in each course.

Pursuant to Title IX of the Education Amendments of 1972, all faculty must excuse absences from class due to pregnancy, a pregnancy-related condition, and/or physical recovery from childbirth for as long as the student's medical provider states the absence is medically necessary. When the student returns from an excused absence, the student must be given a reasonable opportunity to make up any work they may have been missed, including credit for in-class participation.

ADD LINK TO PREGNANCY POLICY WHEN AVAILABLE

Approved: UND Senate, 01-17-74

2. Instructor's Drop Policy [no changes]

VI. Examinations [No further changes to Section III: Teaching Policies and Procedures]

Section IV: Appendix [No Changes]

Commented [VB3]: It isn't in policy stat yet, but we hope to have it live in the next couple months

**University Senate Library Committee
Annual Report for 2020-2021 Academic Year
Fall 2021**

Membership

Colt Iseminger (Chair-JDO), Stacy Bjorgaard (CEM), Sagini Keengwe (CEHD), Isaac Karikari (CNPD), Barbara Lewis (CAS), Matt Notbohm (CoBPA), Tammy Oltz (Law), Linda Ray (SMHS), Gracie Lian (Student), Rebecca Reeves (Student), Devon Olson (SMHS)

Ex-Officio: Stephanie Walker (Dean of Libraries & Information Resources)

Committee Activities

The committee re-elected Colt Iseminger as Chair for 2020-2021.

The committee met approximately bi-monthly to discuss library issues, detailed below.

- **Committee Charge Review and Revision:** The Committee reviewed the Committee Charge and discovered that there were some areas that were unclear. For example, the wording in some areas was vague, and made it seem like the Dean of Libraries & Information Resources (Stephanie Walker) oversaw the Medical and Law libraries as well, which is not the case. Both of those positions report via their own leaders up to their respective Deans, of SMHS and Law. Until very recently, this was an explicit accreditation requirement. Devon Olson led the revisions and have included the revised charge at the end of this document.
- **New Library Services Platforms (LSP):** All UND Libraries put in extensive work this year on the system conversion from Ex Libris's Aleph platform (which is being phased out) to the ALMA platform. It officially went live on July 28, 2020; however, library systems tend to require 18-24 months of data clean-up work after conversion, and this time was no exception. This was a statewide system conversion and has required extensive work from the entire Technical Services and Access Services departments, some staff in Reference, and staff from Law and Med libraries too. The Chester Fritz Library (CFL) are displeased with the service provided by Ex Libris; the company promised the same training team for the entire conversion, and there were at least four different teams. Also, they have repeatedly neglected to warn the CFL when they "fix" an issue, and often that has generated further problems. This has been a considerable burden, and ODIN has complained.
- **COVID Preparations & Services:** The CFL continued to offer and refine various remote services, to support the many courses that were being taught online. The Libraries created a LibGuide of [Services for Quarantined Students](#) and one of [COVID-19 Resources](#). The CFL offered many online classes and webinars and instruction sessions of their own and discovered that attendance was generally higher for online sessions than in person; one workshop on Patent Resources, which would normally draw perhaps 10-12 people, drew 45. They promoted the 24/7 chat reference service. They posted signs about social distancing and more and made hand sanitizer and masks and wipes widely available. There were many additional services and resources, which were promoted widely, and shared with the group.

- **Renovations:** Library renovations were completed, and a formal Grand Re-opening was held on October 22, 2021. Approximately 100 people attended. There were some minor additional projects that were completed afterward, including the offices for the AI/VR lab staff, but much of the renovation work was complete before the Grand Re-opening.
- **NEH Grants:**
 - Work on the NEH grant (approx. \$269,000) awarded to the Faculty of Arts & Sciences and CFL was completed. Prof. Crystal Alberts was the PI. In CFL, Zeineb Yousif, Mike Swanson, and Brian Baier were partly funded via this grant; Will Martin and Curt Hanson also contributed time. The four collections included as part of the grant were: the Bygdebok site; Nuremberg Trials materials; the William Langer collections; and indigenous collections. Prof. Bill Caraher's HIST 240 class was also involved in the digitization, and students loved having the opportunity to work on something that became part of our permanent digital collections.
 - The CFL applied for a 2nd grant, between UND's Faculty of Arts & Sciences and Chester Fritz Library and the Nueta Hadatsa Sahnish College, for nearly \$500,000 and were successful. This time, there is no funding for the library staff who are involved (the same people as worked on the last one), and the funding mostly covers adjuncts and faculty at NHSC, but the CFL will get a wonderful, landmark digital collection. However, it will be time-consuming, and the CFL will not be able to seek other grants until this one is complete.
- **NARA Grant:** UND continues to be a supporting partner on a major National Archives & Records Administration grant, by the Standing Rock Sioux tribe, to digitize materials in the Lakota Language. Largely, the CFL have provided some metadata consultation and some digitized materials.
- **CFL Staff:**
 - **New:** The CFL hired a new Web Services Librarian, Rebecca Brown, who started in October 2020; a new Business & Government Documents Librarian, Brian Garrison, who started in September 2021; a new Sciences Librarian (focusing especially on the disciplines from the Odegard School, but a few others as well), Alfred Wallace, who started in March 2021; a new Education Librarian, Danielle Masursky, who started in July 2021; a new ILL Associate, Hannah Herrera, who started in Fall 2021; a new Periodicals & Access Services Associate, Nichole Martin, who started in Fall 2021; and a first-ever Systems Librarian, Emily Wros, who started in July 2021. The Systems Librarian was a reconfigured position, not a new line; the CFL no longer need a front-line technology support person, now that UIT is in the building, but have had a long needed a Systems Librarian, and virtually all libraries of any size have at least one, if not an entire division. Emily has already been doing extensive work with the new Ex Libris ALMA system, which has proven immensely valuable.
 - **Promotions:** Chris Gasink was promoted to Access Services Specialist. Sally Dockter was promoted to Assistant Dean and Head of Public Services. Joan Miller was promoted to senior ILL Specialist. Laura Egan, formerly our

Sciences & Engineering Librarian, was promoted to Head of Collection Strategies.

- **Losses & Departures:** Randy Rasmussen, a longtime Access Services and Binding Specialist, died on December 19, 2020. Randy Pederson, who had been at CFL in various roles since 1981, retired from his position as Head of Collections. Kerry Hackett, senior ILL Specialist, retired as well. Holly Gabriel, a longtime Business & Government Documents Librarian, accepted a position as OERs & Government Documents Librarian at Southern Oregon State University. Heather Rogers, the Education Librarian, resigned to move to Canada part-way through the pandemic, but continued to work remotely part-time, until August 2021.
- **Ongoing Searches:** A search to recruit a Sciences & Engineering Librarian to back-fill Laura Egan's former role failed. The CFL will re-post in March 2022, in hopes of interesting someone who is about to graduate with their MLIS; the CFL will especially make efforts at places that have library schools and Engineering Libraries, in hopes of finding someone who has had an internship or part-time job in a science/engineering library.
- **Open Educational Resources:** OERs continue to be a very successful initiative. The CFL ran another Request for Proposals and were able to fund conversion of another fourteen courses to use OERs. UND faculty also were funded by NDUS to convert several of their courses to OERs, and NDUS also funded a few faculty research fellowships for OERs. In March 2021, the CFL held another virtual OERs conference; Dean Walker served on the organizing committee. Dean Walker continues to serve on an OERs Advisory Group for NDUS. She also serves on OERs advisory groups for a national group of librarians with one expert for each state (Dean Walker represents North Dakota, of course), and on two regional groups, including MHEC and WICHE. She also served on a technology sub-group for the MHEC OERs council. Most recently, as of October 2021, she is serving as UND's representative to a National Academy of Sciences OERs group that will focus on the creation of learning communities for OERs, and the creation of OERs in STEM areas where there is strong need.
- **Collections:** The CFL were able to purchase a few additional journal backfiles this year, largely because of staff savings (furloughs, loss of several staff members for various amounts of time) and because some vendors froze their prices during at least the first year of the pandemic. The Collections librarians spent considerable time and effort reviewing all requests the CFL had gotten over the years, reviewing the "wish list", and reviewing statistics for turn-aways and ILL requests, which helped them determine areas of greatest need. The requests were then ranked and prioritized. They tried to spread the purchasing among various disciplines. In recent years, the CFL have improved their collections in Business, Physics, Engineering, Social Sciences, History, English, and more. They have added substantial numbers of e-books as well. This year, they experienced a huge increase in requests for streaming video collections. The CFL could not buy everything, and some vendors had terms that could easily have become very costly, very quickly. The CFL purchased Academic Video Online (AVON) and have made other individual purchases. They also purchased a subscription to Unsub, a service that helps them

to analyze the usage of journals within some of the largest “Big Deal” packages, namely Elsevier, Wiley, Springer, and Sage, thus far. It also allows the CFL to incorporate analysis of ILL costs and availability, and of Open Access impact on collection availability. After extensive analysis by Laura Egan, the CFL have discovered that it would be very difficult to withdraw from the big packages from Elsevier and Wiley. These are overwhelmingly where our faculty have published, and if the CFL withdrew from the “Big Deals” and purchased a limited set of titles to cover the heaviest use, they would experience a substantial increase in ILL costs – over \$35,000. It is not impossible, by any means, but the CFL would need significant lead time and extensive efforts to communicate with faculty. It’s worth noting that the University of California system spent three solid years speaking with their faculty before they withdrew (temporarily, as it turned out) from Elsevier. Also, are in the midst, at present, of negotiating new contracts with Wiley and Elsevier, as well as many other smaller vendors. Due to extensive negotiation work, the CFL were able to get Wiley to reduce their annual price increase to 2% each year for a three-year deal. The CFL are still working on Elsevier. Elsevier is really pushing libraries to drop perpetual access; the CFL are strongly opposed to this. The CFL do not like the idea of paying \$850,000 a year and having no permanent access from now on. Thus far, it looks like the CFL will be signing a three-to-five-year deal, keeping the perpetual access, and having slightly smaller annual price increases. Elsevier was very unwilling to make any other changes requested. Also, the Chester Fritz Library is now working closely on crafting MOUs, mostly between CFL and SMHS Library Resources, but also, to a lesser extent, with Law (Law has a few Wiley titles). This was difficult to do before now, because of personnel changes, but SMHS Library Resources has hired Erika Johnson to be its leader (she was formerly the Fargo Clinical Campus Librarian), and when Randy Pederson retired from CFL, the CFL were able to hire Laura Egan into his former role. With personnel in place, the CFL were able to sort things out, and are now close to finalizing the Wiley MOU; they will work on the Elsevier one once the CFL have a contract. The CFL also spent a great deal of time discussing journal usage statistics.

- **Policy on Legal & Ethical Considerations for Digital Collections:** As the CFL began the first NEH grant, they realized that questions were arising that were somewhat specific to digital collections. The CFL do regularly get copyright questions, but also had some thorny issues arise. For example, in 2015, when the CFL were posting the 911 Flood Calls collection, they realized that there were a few calls in which one could hear domestic violence in the background. Not wanting to harm individuals who might be upset, embarrassed, or worse by this, but also not wanting to censor any collections or prevent researchers from accessing materials, they decided that for those calls, they would redact the digital public copy and just leave in place metadata that tells the accessor what is going on and instructs researchers to contact the Archives if they need access to the full content. That way, anyone researching something like, for example, domestic violence incidents during natural disasters could still get the material, but it wouldn’t be spread across the Internet. Similarly, a few years later, around 2018, the CFL were digitizing student yearbooks, and found about eight instances of photographs of students in blackface. The CFL don’t wish to cover this up, but also don’t want to risk having

someone Photoshop these images and, for example, claim that this was happening right now at UND. Again, the CFL redacted only the digital copy, not the original, and left metadata in place saying what the image was and instructing anyone who needed the full content to contact the Archives. However, when the CFL began working with indigenous collections, they also wanted to consider such useful professional material as *Protocols for Native American Archives*, as well as other materials and guidance from the Society of American Archivists, the Native Archivists Association, and more. Stephanie Walker, Curt Hanson, Zeineb Yousif, and Mike Swanson began working on drafting a policy. They completed a first draft and shared it with Interim Provost Storrs and the University Senate Library Committee in May 2021. However, the USLC doesn't meet over the summer, and its membership usually changes each year, and Provost Link joined us in July 2021. As well, the CFL began working more closely with NHSC, and anticipate that there will be interest in reviewing our collections, and possibly asking for either digital or physical repatriation of some materials, or any number of other actions. Thus, the CFL rebooted the actions, and Dean Walker sent the draft policy to Provost Link and Heather Wages for an initial review, and she sent it to the new USLC as well, to gather some faculty feedback. These discussions are still in early stages.

This summarizes USLC activities for the academic year 2020-2021.

Respectfully submitted,

Colt Iseminger, Chair, University Senate Library Committee 2020-2021
and
Devon Olson, Chair, University Senate Library Committee 2021-2022

SENATE LIBRARY COMMITTEE

- Purpose: To provide guidance by serving in an advisory capacity to the Chester Fritz Library Dean of Libraries and Information Resources, and in a communications and collaboration capacity to the Assistant Dean for Law Library and Information Services and the Director of Library Resources for the School of Medicine and Health Sciences, regarding policies and planning for the libraries, and to report to appropriate bodies on matters related to the libraries.
- Membership: Chester Fritz Library Dean of Libraries and Information Resources or designee (one, non-voting, advisory)
Assistant Dean for Law Library and Information Services designee (one, non-voting, advisory)
Director of Library Resources for the School of Medicine and Health Sciences or designee (one, non-voting, advisory)
Faculty (nine)
Students (two: one undergraduate, one graduate)
- Terms: Dean of Libraries and Information Resources or designee - concurrent with office
Assistant Dean for Law Library and Information Services or designee - concurrent with office
Director of Library Resources for the School of Medicine and Health Sciences or designee - concurrent with office
Faculty - three years
Students - one year
- Selection: Dean of Libraries and Information Resources or designee - ex-officio
Assistant Dean for Law Library and Information Services or designee - ex-officio
Director of Library Resources for the School of Medicine and Health Sciences or designee - ex-officio
Faculty - at least one member representing each college or school, approximately one-third elected by University Senate in April and assuming responsibilities May 1
Undergraduate student - elected by the Student Senate in April and assuming responsibilities

May 1

Graduate student - appointed by the Dean of the School of Graduate Studies in consultation with the School of Graduate Studies Committee and the Graduate Student Association in April and assuming responsibilities May 1

Functions and

Responsibilities: Acting of its own volition, upon the request of the Senate and/or others, the Committee shall assume the following responsibilities:

1. Participate, through the Chester Fritz Library Dean of Libraries and Information Resources or persons designated by the Dean, in the formulation of broad policies relative to collections and services as well as in long-range planning for the various libraries.
 - i. Communicate with the Assistant Dean for Law Library and Information Services and the Director of Library Resources for the School of Medicine and Health Sciences or persons designated by the Assistant Dean or Director, in the formulation of broad policies relative to collections and services as well as in long-range planning for the various libraries.
2. Advise the Chester Fritz Library Dean of Libraries and Information Resources in matters of administration and problem-solving.
3. Represent concerns of the University community to the Dean, Assistant Dean, and Director.
4. Report on matters related to the libraries to the University Senate and other appropriate offices.

January 23, 2021.

Report to the University Senate from the Academic Policies and Admissions Committee.

Committee Members: Ibrahim Abdi, Hans Broedel (Chair), Dawson Dutchak, Steven Light, Kanishka Marasinghe, Kathryn Rand, Andrea Young; Scott Correll (ex officio), Jennifer Aamodt (ex officio). (Alas, we have no secretary.)

The APAC Committee has met once (via Zoom) during the past year, on November 23, 2020, to consider three proposals:

1. The Committee considered and voted to recommend a proposal submitted on behalf of the Provost's Office/Professional Advisors to change the system by which enrollment permissions are granted in all undergraduate courses at UND from permission numbers to student specific permission.
2. The Committee considered and voted to recommend a proposal submitted on behalf of the Provost's Office to allow non-degree seeking students to attempt a total of 24 credits at UND (up from 15).
3. Finally, the Committee considered a proposal submitted on behalf of the Provost/Registrar to make permanent the current MWF class schedule, which includes 15-minute breaks between 50 minute classes.

The Committee had during the previous AY voted to recommend that this schedule be adopted provisionally and then to revisit the matter once all stake holders had been given time to assess the new schedule. However, because no one had solicited widespread input prior to our November meeting, we decided to once again postpone making any decision until such time as this information had become available. We asked that our members on the University Senate work to facilitate this process, and I believe that Scott Correll will soon present the results to the Committee for further action.

Sincerely,

Hans Peter Broedel, Chair.

University Senate Curriculum Committee Report February 2022

I New Course

- ATSC 420 : Advanced Weather Forecasting
- CHEM 370 :Drug Chemistry and Toxicology
- COMM 516 :Principles of Professional Communication
- COMM 517 :Research Methodology for Communication Professionals
- COMM 522 :Data Mining & Analytics for Communication Professionals
- COMM 523 :Social Network Analysis & Visualization
- COMM 527 :Persuasion & Persuasive Communication
- COMM 529 :Science Communication
- DATA 513 :Mathematics for Data Science
- DATA 589 :Data Science Ethics
- ENE 522 :Energy Storage Systems I
- ENE 523 :Energy Storage Systems II
- ENGL 540 :Science Writing
- ENGR 550 :Fundamentals of Systems Engineering
- ENVE 997 :Independent Study
- GEOE 420 : Geological Modeling and Numerical Simulation of Reservoirs
- GEOE 421 : Cold Region Hydrologic Modeling
- GEOE 454 :Unsaturated Soil Mechanics
- GEOL 318L :Mineralogy Lab
- GEOL 320L :Petrology Lab
- IH 970 :Special Topics in Indigenous Health
- IH 996 :Continuing Enrollment
- IH 997 :Independent Study
- ME 417 :Friction, Wear and Lubrication
- N&D 310 :Nutrition Assessment
- OLEE 562 :Foundations of Environmental Education
- PT 603 :Applied Anatomy and Biomechanics I
- PT 604 :Gross Anatomy Lab I
- PT 605 :Applied Anatomy and Biomechanics II
- PT 606 :Gross Anatomy Lab II
- PT 607 :Pathophysiology for Physical Therapists I
- PT 608 :Pathophysiology for Physical Therapists II
- PT 609 :Neuroscience for Clinical Practice I
- PT 610 :Neuroscience for Clinical Practice II
- PT 611 :Movement System Examination & Evaluation I
- PT 612 :Movement System Examination and Evaluation II
- PT 615 :Movement System Intervention I

- PT 616 :Movement System Intervention II
- PT 617 :Physical Therapy Case Application I
- PT 618 :Physical Therapy Case Application II
- PT 620 :Evidence Based Practice I
- PT 622 :Biophysical Agents
- PT 625 :Evidence Based Practice II
- PT 630 :Foundations of Clinical Research
- PT 632 :Leadership in Physical Therapy
- PT 634 :Acute Care Physical Therapy
- PT 651 :Clinical Immersion and Community Health
- PT 654 :Clinical Experience III
- PT 660 :Teaching in Physical Therapy Practice
- PT 661 :Professional Development
- PT 995 :Scholarly Project
- SPED 533 :Technology for Visual Impairment
- SPST 530 :Human Centered Design
- SPST 532 :Disasters in Human Spaceflight
- T&L 578 :Curriculum and Pedagogy in Indigenous Education
- UNIV 227 :Study Abroad Pre-Departure Orientation

II Course Deactivation

- ACCT 275 : Accounting for Pre-MBA
- ACCT 316 : Business Law II
- ACCT 380 : International Accounting
- ACCT 403 : Contemporary Accounting Theory
- ACCT 507 :Advanced Managerial Accounting
- ACCT 526 :Advanced Business Law for Accountants
- ATSC 455 : Surface Transportation Weather II
- AVIT 332 :UAS Ground Systems
- ISBC 240 : Operating Systems Principles
- ISBC 350 : Networking II
- ISBC 444 : Philosophy of Vocational Education
- ISBC 451 : Networking III
- ISBC 490 : Information Systems Analysis and Design Seminar
- ISBC 520 :Communication for the Professional
- MPH 506 :Public Health Data Management in R
- MPH 538 :Introduction to Structural Equation Analysis D
- MPH 544 :Leadership of Health Care Organizations
- MPH 553 :Population Health Outcomes Research
- MPH 554 :Continuous Quality Improvement for Health Care Organizations
- MPH 558 :System Dynamics 2
- MPH 596 :Public Health Internship

- NURS 489 :Senior Honors Thesis
- SWK 312 :Social Work and the Legal Process

III New Program

- UND-COMM :Communicating Science
- UND-COMM :Social Data Analytics
- UND-IES :Graduate Certificate in Energy Dynamics, Policy and Strategy
- UND-IES :Graduate Certificate in Energy Storage Systems
- UND-IES :Graduate Certificate in Energy Systems and Optimization

IV Program Title Change

- “Graduate Certificate in Unmanned Aircraft Systems Engineering” to “Graduate Certificate in Systems Engineering”

V Program Inactivation

- SMed-BS-AT :BS in Athletic Training

Senate Approval is not required for the following report items

VI Program Changes

- ACCT-BA : Bachelor of Accountancy
- ACCT-MAcc :Master of Accountancy
- ART-BFA :BFA with Major in Visual Arts
- ART-BFAGD :BFA with Major in Graphic Design
- AVIT-BSAERO-ATM :BS in Aeronautics with Major in Aviation Studies
- BA-MBA :Master of Business Administration
- BA-Soc Science :BA with Major in Social Science
- Chem-BS :BS in Chemistry
- Chem-BSMajor :BS with Major in Chemistry
- CHEM-MS :MS in Chemistry
- COMM-MA :Master of Arts in Communication
- COMM-PhD :Ph.D. in Communication
- COUN-PhD :PhD in Counseling Psychology
- Econ-BBA-BFE :BBA with Major in Banking & Financial Economics
- ECON-MSAE :MS in Applied Economics & Predictive Analytics
- EDUC-EE-MEd :Master of Education in Elementary Education
- EDUC-MS-C&I :Master of Science in Teaching and Leadership
- Entr-BBA :BBA with Major in Entrepreneurship
- FA-MFA :Master of Fine Arts
- Fin-BBA-MFA : BBA with Major in Managerial Finance & Accounting
- FS-BS :BS with Major in Forensic Science
- GeoE-MS :MS in Geological Engineering

- Geog-MS :MS in Geography
- Geol-BS :BS in Geology
- GeolE-BS :BS in Geological Engineering
- HE-MS :Higher Education
- HE-PhD :Education, Health, and Behavior Studies
- ISBE-BBA : BBA with Major in Information Systems
- ISBE-Minor : Minor in Information Systems
- KIN-MS :MS in Kinesiology
- ME-BS :BS in Mechanical Engineering
- Mgmt-BBA :BBA with Major in Management
- Mgmt-BBA-AM :BBA with Major in Airport Management
- Mgmt-BBA-AvM :BBA with Major in Aviation Management
- Mgmt-BBA-HRM :BBA with Major in Human Resource Management
- Mrkt-BBA :BBA with Major in Marketing
- Musc-BM-MEd :Bachelor of Music with Major in Music Education
- N&D-BS :BS in Human Nutrition
- N&D-BS-Diet :BS in Dietetics
- PH-MPH :Master of Public Health
- PT-DPT :Doctor of Physical Therapy
- SusE-Meng :Master of Engineering in Energy Engineering
- SWk-BS :BS in Social Work
- SWk-Minor-CE :Minor in Chemical Dependency
- T&L-BSED-SS :BSED with Composite Major in Social Studies
- T&L-EdD :Doctor of Education in Educational Practice and Leadership
- T&L-Minor-ECE :Minor in Early Childhood Education
- UND-CSCI :Master of Science in Data Science
- UND-ENGR :Ph.D. in Energy Engineering
- UND-IH: Indigenous Health PhD
- UND-ME :Graduate Certificate in Unmanned Aircraft Systems Engineering
- UND-ME :M.Engr in Systems Engineering
- UND-PTRE :Master of Engineering in Petroleum Engineering
- UND-PTRE :MS in Petroleum Engineering

VII Course Changes: Undergraduate

- ACCT 312 : Fund Accounting
- ACCT 412 : Advanced Tax
- ATSC 110 : Meteorology I
- ATSC 231 :Aviation Meteorology
- ATSC 270 : Computer Concepts in Meteorology
- ATSC 345 : Remote Sensing of the Atmosphere
- ATSC 350 : Atmospheric Thermodynamics
- ATSC 492 : Senior Project I

- AVIT 103 :Introduction to Air Traffic Management
- AVIT 126 :Introduction to UAS Operations
- AVIT 238 :UAS Operator Certification
- AVIT 239 :Autonomous Fundamentals
- AVIT 240 :UAS Enabling Concepts
- AVIT 260 :Control Tower Operations I
- AVIT 261 :RADAR Operations I
- AVIT 325 :Multi-Engine Systems and Procedures
- AVIT 331 :UAS Flight Systems
- AVIT 333 :UAS Remote Sensing
- AVIT 337 :Survey of Unmanned Aircraft Systems
- AVIT 362 :Advanced Tower Operations II
- AVIT 363 :RADAR Operations II
- AVIT 419 :sUAS Commercial Operations
- AVIT 428 :Transport Category Aircraft Systems
- AVIT 438 :UAS Operations
- AVIT 450 :Counter UAS Applications
- AVIT 464 :Control Tower/Radar Operations III
- AVIT 468 :Non-RADAR Environment
- AVIT 469 :Air Traffic Control Computer Equipment and Message Entry
- AVIT 470 :Enroute RADAR Operations
- CHEM 462 :Physical Chemistry Laboratory
- CHEM 466 :Fundamentals of Physical and Biophysical Chemistry
- CHEM 471 :Quantum Mechanics & Spectroscopy
- CHEM 475 :Materials Chemistry
- FS 120 :Introduction to the Forensic Sciences
- FS 345 :Forensic Science
- FS 346 :Analysis of Forensic Evidence
- FS 400 :Forensic Science Applied Experiences
- GEOL 318 :Mineralogy
- GEOL 320 :Petrology
- GEOL 330 : Structural Geology
- GEOL 407 : Petroleum Geology
- GEOL 420 :Geology Capstone
- HIST 220 :History of North Dakota
- ISBC (ISBA) 117 :Personal Productivity with Information Technology
- ISBC (ISBA) 217 :Fundamentals of Computer Information Systems
- ISBC (ISBA) 300 :Programming for Data Analytics
- ISBC (ISBA) 305 :End-User Applications
- ISBC (ISBA) 330 :Database Management
- ISBC (ISBA) 340 :Fundamentals of Networking
- ISBC (ISBA) 370 :Web Development

- ISBC (ISBA) 397 : Cooperative Education
- ISBC (ISBA) 410 :Information Security
- ISBC (ISBA) 430 :Database Analytics
- ISBC (ISBA) 471 :Advanced Information Systems Programming
- ISBC (ISBA) 497 :Information Systems Internship
- MGMT 475 :Strategic Management
- POLS 405 :Political Behavior
- POLS 432 :Public Policy Making Process
- POLS 535 :Public Organizations
- SPST 410 :Life Support Systems
- SPST 425 :Observational Astronomy
- SPST 450 :International Space Programs
- SWK 255 :Introduction to Social Work
- SWK 257 :Human Behavior and the Social Environment I
- SWK 311 :Child Welfare
- SWK 316 :Interprofessional Health Care
- SWK 317 :Social Work Research
- SWK 424 :Generalist Social Work Practice with Individuals and Families
- SWK 434 :Generalist Social Work Practice with Task and Treatment Groups
- SWK 454 :Generalist Social Work Practice with Communities and Organizations
- SWK 481 :Field Education I
- SWK 482 :Field Education Seminar I
- SWK 483 :Field Education II
- SWK 484 :Field Education Seminar II
- THEA 271 :Acting II

VIII Course Changes: Graduate

- ACCT 508 :Fraud Examination
- ACCT 560 :Personal Accountability & Ethics
- ACCT 591 :Accounting Research
- ACCT 592 :Research in Federal Tax
- ACCT 593 :Research in Business Law
- COMM 997 :Independent Study
- EDL 512 : Research, Measurement, and Program Evaluation
- EDL 513 :Leading Curriculum and Learning
- EFR 505 :Sociological Foundations of Education
- EFR 510 : Qualitative Research Methods
- EFR 520 :Advanced Qualitative Research Methods
- HE 995 :Scholarly Project
- ISBC (ISBA) 510 :Business Intelligence
- ISBC (ISBA) 517 :Advanced Accounting Systems
- KIN 540 : eSports and Healthy Gaming

- MPH (PH) 996 :Continuing Enrollment
- PH (IH)763 :Qualitative Methods
- PH (IH) 731 :Applied Biostatistics
- PH (IH) 745 :Indigenous Leadership & Ethics
- PH (IH) 751 :Applied Epidemiology
- PH (IH) 760 :Public Health Program Evaluation
- PH (IH) 761 :Indigenous Evaluation Frameworks
- PH (IH) 762 :Quantitative Methods
- PH (IH) 764 :Mixed Methods Research
- PH (IH) 765 :Indigenous Research Methods
- PH (IH) 766 :CBPR & Tribally-Driven Research Frameworks
- PH (IH) 781 :Principles of Indigenous Health 1
- PH (IH) 782 :Principles of Indigenous Health 2
- PH (IH) 783 :American Indian Health Policy
- PH (IH) 784 :Indigenous Health Policy
- PH (IH) 790 : Indigenous Health Seminar
- PH (IH) 999 :Dissertation
- PT 510 (627):Integrated Clinical Experience
- PT 511 (631) :Applied Movement Science and Rehabilitation Procedures
- PT 522 (642): Administration in Physical Therapy
- PT 523 (623) : Lifespan I
- PT 525 (626) : Clinical Examination and Evaluation II
- PT 526 (646) :Manual Therapy II
- PT 528 (652) :Clinical Education I
- PT 529 (653) :Clinical Education II
- PT 535 (635) :Lifespan II
- PT 538 (638) :Advanced Topics in Pediatric Physical Therapy
- PT 539 (659) :Prevention and Wellness
- PT 540 (640): Cardiopulmonary Physical Therapy
- PT 541 (641) : Clinical Examination and Evaluation III
- PT 545 (645) :Medical Imaging for Physical Therapists
- PT 561 (692) :Seminar: Physical Therapy
- PT 572 (672) :Teaching Experience in Physical Therapy
- PT 584 (650) :Evidence in Practice
- SPST 504 :Research Methods in Space Studies
- SPST 506 :Advanced Orbital Mechanics
- SPST 561 :Public Administration of Space Technology
- SPST 593 :Individual Research in Space Studies
- SPST 595 :Space Studies Capstone
- SPST 997 :Independent Study Report
- T&L 532 :Leading Teacher Learning
- T&L 563: Classroom Based Coaching Practices

- T&L 564: Designing Professional Development for Teachers
- T&L 565: Instructional Coaching Clinical
- T&L 579 :Classroom Based Inquiry

From: Kirsten A. Dauphinais
Chair, University Honorary Degree Committee
Date: January 26, 2022
Re: Honorary Degree Candidates

The UND Communication and Sociology Departments have each advanced a candidate for consideration for the honorary degree of Doctorate of Letters:

Candidate 1 made their Carnegie Hall debut at age 17 and earned a Bachelor's Degree in Music from The Juilliard School. After a distinguished career, Candidate relocated to the Grand Forks region in 2013. This individual has had an influential national media career, as evidenced by curating an influential food blog, contributing to prominent magazines, such as Conde Nast Traveler and Food 52, maintaining a social media presence with hundreds of thousands of followers, and authoring an award winning cookbook. After making frequent guest appearances on a well-known cable network, Candidate debuted Candidate's own Emmy-nominated cooking show, set at Candidate's family farm in our area. The program generally showcases regional cuisine and several episodes featured UND connections. Candidate's success has been covered by many national media outlets, thus promoting our region. It is the opinion of the University Senate's Honorary Degree Committee that this individual is worthy of an honorary degree.

Candidate 2 is a North Dakota native and graduate of the UND Sociology Department, earning Bachelor's and Master's Degrees here. Candidate went on to have an over 30 year record of praxis, facilitating and creating real change among entrepreneurs and organizations, in community development, and particularly with rural landscapes. In addition to applied work helping rural communities develop competitive economies, Candidate has a record of scholarship, including the development of the High-Performance Community model. Candidate has have authored and co-authored a number of economic growth policy papers and books, and received eight Small Business Innovation Research awards from the USDA. In particular, Candidate has developed and held leadership positions with consortia, foundations, and award-winning research institutes/corridors focusing on economic development of Northwest Minnesota, the Red River Valley, and the Great Plains. Candidate has served as a board member of N2TEC, National Network of Technology Entrepreneurship, a nationwide consortium of major research universities, Fortune 1500 corporations, and governments whose mission is to increase the level of innovation and technology commercialization in the United States. Candidate is also a member of the U.S. Global Leadership Coalition's North Dakota Advisory Committee. Finally, in 2014, they were awarded an "Outstanding Alumni Award" by the Sociology and Criminology Department of Candidate's other alma mater, the Pennsylvania State University. It is the University Senate's Honorary Degree Committee that this individual is worthy of an honorary degree.