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***North Dakota State Board of Higher Education***

October 26, 2023, Meeting Minutes

The State Board of Higher Education met on Thursday, October 26, 2023, at 8:30 a.m. CT., via Teams Live.

Chair Mihalick called the meeting to order at 8:30 a.m. CT.

SBHE Members participating:

Mr. Tim Mihalick, Chair	Dr. John Warford, Vice Chair
Ms. Danita Bye	Dr. Casey Ryan
Mr. Jeffry Volk	Mr. Kevin Black
Ms. Sadie Hanson	Mr. Curtis Biller
Dr. Lisa Montplaisir, Faculty Advisor	Mr. Michael Linnell, Staff Advisor

Chancellor present: Dr. Mark Hagerott

Institution Representatives Present:

Dr. David Cook, President, NDSU  
Dr. Steve Shirley, President, MiSU  
Dr. Carmen Simone, Dean, DCB  
Dr. Doug Darling, President, LRSC  
Dr. Van Horn, President, MaSU  
Dr. Rod Flanigan, President, NDSCS  
Dr. Doug Jensen, President, BSC  
Mr. Steve Easton, J.D., President, DSU  
Dr. Andy Armacost, President, UND  
Dr. Alan LaFave, President, VCSU  
Dr. Bernell Hirning, President, WSC

NDUS Senior Staff Participating:

Ms. Lisa Johnson, NDUS  
Mr. Darin King, CTS  
Mr. Corey Quirk, CTS  
Mr. Jerry Rostad, NDUS  
Mr. Mark Gorenflo, NDUS  
Mr. Chris Pieske, NDUS  
Mr. David Krebsbach, NDUS  
Ms. Jane Grinde, NDUS  
Dr. Jen Weber, NDUS

Others Participating:

Ms. Meredith Larson, Assistant Attorney General  
Ms. Rachel Sinness, Assistant Attorney General

1. **Agenda**

Warford moved, Ryan seconded, to approve the agenda, as presented.

Member Volk requested a discussion item regarding record retention be added to the agenda.

Members Warford and Ryan amended their motion to include member Volk's addition.

Warford moved, Ryan seconded, to approve the agenda, with an addition of discussion on NDUS/SBHE records retention.

Warford, Biller, Bye, Hanson, Volk, Ryan, and Mihalick voted yes. Member Black was temporarily inaudible. Motion passed.

### **Board Consent**

Member Volk requested to pull items two and seven from the consent agenda.

2. ~~[September 28, 2023, Meeting Minutes](#)~~ Removed from consent and placed under Board action.
3. [October 20, 2023, Special Meeting Minutes](#)

SBHE Academic and Student Affairs Committee

4. [2024 – 2025 TrainND Business Plan](#)

SBHE Budget and Finance Committee

5. Ratify Chancellor's approval of the [transfer of \\$415,945 from the NDUS Capital Building Fund](#) at the State Investment Board to the VCSU capital building fund appropriation line
6. [NDUS Retirement Plan—Plan Expenses](#)

SBHE Research and Governance Committee

7. ~~[TikTok Waiver Request](#)~~—The use of a virtual desktop provisioned in Microsoft Azure for NDUS—~~institutions to use for recruitment purposes.~~ Removed from consent and placed under Board action.

Volk moved, Warford seconded, to approve consent items three through six, and further move items two and seven to Board action. Member Volk also noted item eight was removed from the agenda prior to the meeting.

Bye, Hanson, Warford, Biller, Volk, Ryan, and Mihalick voted yes. Member Black was temporarily inaudible. Motion passed.

### **9. UND to seek approval of sale of land**

And

### **10. BSC Multipurpose Academic / Athletic Center**

Board members discussed [UND's request to seek approval of sale of land](#) and BSC's request for sale of self-liquidating revenue bonds for the [Multipurpose Academic / Athletic Center](#). After discussion regarding the approval process for these types of requests, it was noted that the items had not been reviewed by the SBHE Budget and Finance Committee (BFC). The committee inquired if the items were time sensitive, Presidents Armacost and Jensen confirmed that there is time for their items to go to the next BFC meeting. President Jensen explained that the time sensitive piece was legislative approval, and the Legislature approved the project at their recent special session.

No action was taken on UND's request for the sale of land request. The Board acknowledged the more appropriate action is to postpone consideration until after review by the SBHE Budget and Finance Committee.

Bye moved, Ryan seconded, to postpone consideration of BSC's project until the next Board meeting.

Bye, Hanson, Black, Warford, Biller, Volk, Ryan, and Mihalick voted yes. Motion passed.

Vice Chancellor Krebsbach reviewed Policy HR 10 and Policy 707.

**11. 1<sup>st</sup> Reading, HR10, Retirement**

Volk moved, Ryan seconded, to approve 1<sup>st</sup> reading of [Policy HR10](#).

Warford, Biller, Bye, Hanson, Black, Volk, Ryan, and Mihalick voted yes. Motion passed.

**12. 1<sup>st</sup> Reading, Policy 707, Severance Pay**

Ryan moved, seconded, to approve 1<sup>st</sup> reading, waive 2<sup>nd</sup> reading, and final adoption of [Policy 707](#).

Warford, Biller, Bye, Hanson, Black, Volk, Ryan, and Mihalick voted yes. Motion passed.

Vice Chancellor Krebsbach reviewed the following [600 Series of policies](#); he noted that the SBHE Budget and Finance Committee has reviewed and recommended approval:

**13. 1<sup>st</sup> Reading, 600 Series Policies, Personnel**

a. 602.3 Job Applicant and Employee Criminal History Background Checks

- No substantive change
- Periodic review

b. 603.2 Equal Employment Opportunity

- No substantive change
- Periodic review

c. 603.3 Nepotism

- No substantive change
- Periodic review

d. 607.4 Sick and Dependent Leave; Family Leave

- Substantive change
- Mirror Human Resource Policy 22
- Periodic review

e. 614 Hazardous Substances Information Program

- No substantive change
- Periodic review

f. 615 Drug Free Workplace

- No substantive change
- Periodic review

Warford moved, Ryan seconded, to approve all proposed 600 policies as 1<sup>st</sup> readings, items 13 a - f.

Bye, Hanson, Black, Warford, Biller, Volk, Ryan, and Mihalick voted yes. Motion passed.

Vice Chancellor Johnson reviewed the following [600 Series of policies](#), she noted that the SBHE Budget and Finance Committee has reviewed and recommended approval:

**14. 1<sup>st</sup> Reading, 600 Series Policies, Personnel**

- a. 610 Oath for Teachers
  - No substantive change
  - Periodic review
- b. 611.2 Employee Responsibility and Activities: Intellectual Property
  - No substantive change
  - Periodic review
- c. 611.6 Confidential Proprietary Information
  - Substantive change
  - Adding caveats and statutory language
  - Periodic review
- d. 611.8 Employee Responsibility and Activities: Research on Human Subjects
  - No substantive change
  - Periodic review
- e. 611.9 Selection of Textbooks and Other Curricular Materials
  - No substantive change
  - Periodic review

The Board discussed the review process and Mr. Pieske confirmed that all policies have gone through the NDUS Councils, Cabinet, and an SBHE Committee. Member Bye requested that the NDUS research institutions have another opportunity to review policies 611.2, 611.6, and 611.8, as they relate to research. Member Volk agreed and further requested that the SBHE Research and Governance Committee also have an additional review.

Bye moved to re-direct Policy 611.2 (item 14b) back for an additional review by the NDUS research institutions and to approve Policies 610, 611.6, 611.8, and 611.9, as 1<sup>st</sup> readings.

After further discussion, member Volk requested that Policies 611.6 and 611.8, also be re-directed for further review.

Volk moved, Ryan seconded, to refer policies 611.2, 611.6, and 611.8 to the SBHE Research and Governance Committee for additional review, items 14b – d, and to approve policies 610 and 611.9 as 1<sup>st</sup> readings. Member Bye had no concerns with the amended motion by Volk and seconded by Ryan.

Bye, Hanson, Black, Warford, Biller, Volk, Ryan, and Mihalick voted yes. Motion passed.

Vice Chancellor Johnson reviewed the following [400 Series of policies](#), she noted that the SBHE Academic and Student Affairs Committee has reviewed and recommended approval:

**15. 400 Series Policies**

- a. 403.1.2 Institutional Instructional Program Evaluation
  - Delete
- b. 403.2 Course Inventories and Titles
  - Delete
- c. 403.6 Course Challenges and Prior Learning Credit
  - Delete

- d. 403.8 Major and Minor Equivalency
  - Delete
- e. 403.9 Developmental Courses
  - Delete
- f. 405.1 Student Teaching Field Experience
  - Delete
- g. 406 Academic Calendars
  - Substantive change
  - Require standard time blocks for classes
- h. 406.2 Class Start Times
  - Delete
- i. 410.0 Responsible Conduct of Research
  - Renumber to 410, no other changes
- j. 412 Transfer of Credits
  - Substantive change
  - Require that institution must be recognized by the US Department of Education to transfer credits
- k. 430.1 Honorary Degrees
  - Renumber to 430, no other changes
  - Periodic review
- l. 430.2 Emeritus Status
  - Renumber to 431, no other changes
- m. 430.3 Posthumous Degrees
  - Renumber to 423, no other changes
  - Periodic review
- n. 441 Degree Credit, Non-Degree Credit and Non-Credit Instructional Activity
  - Substantive change
  - Incorporate deleted Policies 403.2, 403.6, 403.8, 403.9, 405.1
  - Incorporate deleted Procedure 441
- o. 450 Institutional Reports, Catalogs, Bulletins
  - Delete
- p. 460 Transfer and Test Credit Agreement
  - Substantive change
  - Clarifying definitions

Ryan moved, Black seconded, to approve all proposed 400 policies as 1st readings, waive 2<sup>nd</sup> reading, and final adoption of items 15 a - p.

Bye, Hanson, Black, Warford, Biller, Volk, Ryan, and Mihalick voted yes. Motion passed.

Vice Chancellor Rostad reviewed [Policy 305.1](#).

16. **305.1, Institution President Authority and Responsibilities; Contract Terms.**

Ryan moved, Bye seconded, to approve Policy 305.1 on 1<sup>st</sup> read and waive second read.

Black, Warford, Biller, Bye, Hanson, Volk, Ryan, and Mihalick voted yes. Motion passed.

Vice Chancellor Rostad reviewed [Policies 604.1 and 604.2](#):

**17. SBHE Policies 604.1 and 604.2**

- a. SBHE Policy 604.1, Performance Evaluations Presidents
- b. SBHE Policy 604.2, Performance Evaluations Chancellor

Member Volk noted that the Board’s practice/process for the Chancellor’s evaluation and the timeline in Policy 604.2 don’t quite align and requested further review before a second reading of the policy. Chancellor Hagerott had no concerns and recommended that the Board send it back to the SBHE Research and Governance Committee (RGC) for further review.

Ryan moved, Bye seconded, to approve 1<sup>st</sup> reading of Policy 604.1, and to refer Policy 604.2 back to the SBHE Research and Governance Committee for further review.

Bye, Black, Warford, Biller, Hanson, Volk, Ryan, and Mihalick voted yes. Motion passed.

**Added agenda item - Record Retention**

Member Volk requested that the Board policy on records retention be reviewed at an upcoming meeting. He said that he was informed that SBHE meeting recordings were only being kept for six months and recommends the Board discuss the process and procedures that the system office has implemented. Board counsel, Ms. Larson, informed the Board members that she has discussed record retention with system office staff and noted that prior to her being assigned as legal counsel to the Board, the office was maintaining records longer than what is considered best practice. Member Volk noted that six months is the minimum requirement, however, it’s at the Board’s discretion to maintain them for a longer period. Ms. Larson stated that from a legal standpoint, her recommendation is to maintain the six-month records retention. She explained that following the minimum requirements reduces legal exposure, risk, and vulnerability to data breaches. Member Volk reiterated his request to include a full Board discussion at the meeting, so all members have a better understanding of the different types of records, record retention requirements, and the process the system office has in place. Member Bye agreed to discuss records retention in the SBHE Research and Governance Committee. Member Volk also asked for faster and easier access to Committee meeting recordings. The system office agreed to discuss options and follow-up with Board members.

**Item 2 - September 28, 2023, Meeting Minutes**

Member Volk stated the 2024 meeting calendar is accurate, as approved and attached, however requested that the change to the September 2024 meeting date be noted in the minutes.

Volk moved, Ryan seconded, to approve the September 28, 2024, meeting minutes, as amended.

Bye, Hanson, Black, Warford, Biller, Volk, Ryan, and Mihalick voted yes. Motion passed.

**Item 7 - TikTok Waiver Request**

Vice Chancellor King explained the proposed TikTok waiver request, which would allow NDUS institutions interested in using TikTok for outreach and marketing to do so without having the TikTok app access any NDUS systems or equipment. The Board revisited their discussion and action on the TikTok app usage policy, including the allowance for waivers of the policy, that was taken at a previous meeting. Despite the Board having approved a waiver process in principle, several Board members felt uncomfortable approving the specific proposed waiver given ongoing concerns with TikTok.

Black moved, Volk seconded, to refer the TikTok app usage policy back to the SBHE Research and Governance Committee.

Bye, Hanson, Black, Warford, Biller, Volk, Ryan, and Mihalick voted yes. Motion passed.

18. SBHE Academic and Student Affairs Committee report presented by Dr. John Warford.
19. SBHE Research and Governance Committee report presented by Dr. Casey Ryan and Ms. Danita Bye.
20. SBHE Budget and Finance Committee report presented by Mr. Kevin Black.
21. SBHE Audit Committee report presented by Mr. Jeffrey Volk.
22. Ad Hoc Post-Tenure Committee report presented by Dr. Casey Ryan and Mr. Tim Mihalick.

Dr. Jen Weber presented the 2023 Fall Enrollment Report and provided information on enrollment trends, items 23 and 24..

23. [2023 Fall Enrollment report](#)

24. PPT [presentation on Enrollment Trends](#)

25. Envision 2035 Update presented by Vice Chancellor Rostad.
26. Legislative Update presented by Vice Chancellor Krebsbach.

27. NDSA report presented by Ms. Sadie Hanson.
28. CCF report presented by Dr. Lisa Montplaisir.
29. Staff Senate report presented by Mr. Michael Linnell.
30. Public Comment – no public comment.

31. Assessment of Meeting and Future Agenda Items

32. Motion to Adjourn

Ryan moved, Bye seconded, to adjourn the meeting at 3:45 p.m. CT.

Bye, Hanson, Black, Warford, Biller, Volk, Ryan, and Mihalick voted yes. Motion passed.

Approved December 7, 2023.