North Dakota State Board of Higher Education
Academic and Student Affairs Committee
Meeting Notice and Agenda
February 15, 2017

The State Board of Higher Education’s Academic and Student Affairs Committee will meet by conference call on Wednesday, February 15, 2017 at 10:00 a.m. CT. The call will originate on the 10th floor of the State Capitol, NDUS Conference Room, 600 E. Boulevard Ave., Bismarck, ND.

*See supporting document  #action required  +discussion needed  =information only

Call to Order

1. * # Agenda
2. * # Meeting Minutes – January 18, 2017

Announcement of Chancellor’s Action(s): Item 3 was reviewed and approved by the Chancellor’s Cabinet on February 8, 2017.

3. = Stage I-New Program(s): (Chancellor announces request to SBHE)

| UND Grad. Cert. | Counseling with a K-12 emphasis | 13.1101 | Distance Ed |

Policies

4. * # Policy 505 – Student Health Insurance
5. * # Policy 605.3 – Nonrenewal, Termination or Dismissal of Faculty

Business

6. * # HB1329 – Student Free Speech

Discussion

7. + NDSU and UND Core Course Admission Standards - Mike Ness and Richard Rothaus

Other Business

8. Future Agenda Items

Contact Kristie Hetzler at (701) 328-2966 or Kristie.hetzler@ndus.edu prior to the scheduled meeting date if auxiliary aids or services are needed.

The North Dakota University System is governed by the State Board of Higher Education and includes:
Bismarck State College • Dakota College at Bottineau • Dickinson State University • Lake Region State College • Mayville State University • Minot State University • North Dakota State College of Science • North Dakota State University • University of North Dakota • Valley City State University • Williston State College
North Dakota State Board of Higher Education
Academic and Student Affairs Committee
Via Conference Call
Minutes January 18, 2017

Ness called the meeting to order at 10 a.m. CT.

SBHE Committee on Academic and Student Affairs members present:
Mr. Mike Ness
Mr. Nick Evans
Dr. Ernst Pijning, Faculty Adviser

NDUS staff present:
Dr. Richard Rothaus, Vice Chancellor for Academic and Student Affairs
Ms. Nancy Green, Executive Assistant for Academic and Student Affairs

Guests:
Dr. Mark Hagerott, Chancellor
Dr. Lisa Feldner, Chief of Staff
Ms. Karol Riedman, Compliance Officer
Mr. Nick Vaughn, Assistant Attorney General
Mr. Chris Erickson, Public Affairs Manager

1. Agenda
   Evans moved to approve agenda.
   Evans and Ness voted yes.

2. Meeting Minutes
   Evans moved to approve the November 10th meeting minutes.
   Evans and Ness voted yes.

Announcement of Chancellor's Action(s): Items 3 and 4 were reviewed and approved by the Cabinet on January 11, 2017.

3. Stage I-New Program(s): (Chancellor announces request to SBHE)

|------|------------------|-------------------------------|---------|-----------|

<table>
<thead>
<tr>
<th>UND</th>
<th>B.S.Ed.</th>
<th>Secondary Education</th>
<th>13.1205</th>
<th>On-campus</th>
</tr>
</thead>
</table>

4. Stage II-Place Program(s) on Inactive Status: (Requires Cabinet Review/Chancellor Approval)

<table>
<thead>
<tr>
<th>MaSU</th>
<th>B.A.</th>
<th>Studies in Education</th>
<th>13.1501</th>
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</table>
Council Business

5. Stage II-New Program(s): (Requires Cabinet Review/SBHE Action)

<table>
<thead>
<tr>
<th>Institution</th>
<th>Minor</th>
<th>Program</th>
<th>Code</th>
<th>Delivery Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>NDSU</td>
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<td>Food Science and Technology</td>
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<tr>
<td>UND</td>
<td>Undergrad. Cert.</td>
<td>Diversity and Inclusion</td>
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<td>Distance Ed, On-campus</td>
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<tr>
<td>MiSU</td>
<td>Min</td>
<td>Film Studies</td>
<td>50.0601</td>
<td>On-campus</td>
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</tbody>
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Evans moved to approve item 5.
Evans and Ness voted yes.

6. Stage II-Program Termination(s): (Requires Cabinet Review/SBHE Action)

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<thead>
<tr>
<th>Institution</th>
<th>Minor</th>
<th>Program</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>NDSU</td>
<td>Min</td>
<td>Coaching</td>
<td>13.1314</td>
</tr>
<tr>
<td>NDSU</td>
<td>B.S., B.A.</td>
<td>German Education</td>
<td>13.1326</td>
</tr>
<tr>
<td>NDSU</td>
<td>Min</td>
<td>Speech Communication Education</td>
<td>13.1331</td>
</tr>
</tbody>
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Evans moved to approve item 6.
Evans and Ness voted yes.

7. Stage II-Organizational Change(s): (Requires Cabinet Review/SBHE Action)

University of North Dakota’s request for an organizational change: Move the B.A. in Geology From College of Arts and Sciences To College of Engineering and Mines as the B.S. in Earth Science.

Evans moved to approve item 7.
Evans and Ness voted yes.

Policies

8. Policy 605.3 - Nonrenewal, Termination or Dismissal of Faculty
In response to the budget crisis, language is being changed from 12 months to 90 days notification should a tenured faculty lose their position due to budget cuts. The 90 days is a minimum option, not required. This change is a tool for campus presidents to use according to their economic situation. The policy will go through ten meetings of councils, Cabinet, SBHE Committees, and SBHE before finalized.

Open Discussion

9. NDSU and UND Core Course Admission Standards
These requirements have caused unintended consequences for K-12 and CTE. There is some data that suggests the core course requirement ramp-up may not be creating the increased retention and attainment at a level that is worth the disruption. The Academic and Student Affairs Committee will come back with a recommendation at the next SBHE meeting.

10. Tenure and Faculty Appointment Deadline – March 23 for April SBHE meeting
March 23 is the deadline for tenure applications and faculty appointments to be in to be voted on at the April SBHE meeting.

Ness adjourned the meeting at 11:10 a.m. CT.
1. **Issue:** SBHE Policy 505 – International student health insurance policy. We need to update this policy to reflect the latest proposal of the student health insurance plan workgroup, which found that if the NDUS limited waivers from our health insurance plan, all international students and the staffs that work with them, would experience direct benefits.

2. **Proposed actions:** Approve/deny the proposed edits to SBHE Policy 505 – International Student Health Insurance.

3. **Background information:** Student health insurance premiums have continued to rise over the last few years. Partially because health insurance costs are increasing, but also partially because of high rates of utilization. The insurance policy we offer to the students is very robust and when compared to what an individual can secure through private insurance or the exchange, it is very affordable. However, to the student population who is not accustomed to purchasing insurance or navigating the realm of health insurance, they do not consider it affordable, especially our international students.

Domestic students, though required by federal law, do not have to have health insurance in order to attend an NDUS institution. International students’ visas, however, require those students to purchase insurance with certain benefits.

In 2016-2017, 1993 individuals purchased the NDUS sponsored health insurance plan. 1634 were international students and their dependents; 359 were domestic students and their dependents. Though the domestic population comprised 18% of the clientele, that group outspent the international group by extreme margins. International students do not use the insurance at a similar consumption rate for a variety of reasons; they are unfamiliar with our health care system, they plan to return home if a large health concern should arise, or they lack transportation to an off-campus health facility. Because of this, the international students were subsidizing the costs for the domestic students. Starting in 2016, because of policy changes involving graduate student compensation packages and the ever-increasing premium costs, most colleges and universities across the system started to allow a greater portion of international students to waive NDUS’s coverage as long as the international student secured comparable coverage and provided proof. This led to over 270 international student waiver processes to transpire whereas in previous years, institutions would entertain a fraction of that number. The amount of work the waiver process placed upon our campus staffs was significant. Some campuses would use 1-4 professionals to vet the many requests over the course of 5-8 weeks.

For 2017-2018, we renegotiated the insurance premiums with our carrier. We plan to separate domestic students from international students, which will lead to a significant premium reduction for the international population: 30%. That will save our international students an excess of $1.2 million dollars next year. Because we have secured a more affordable, yet still comprehensive
and compliant, insurance plan for our international students, and because each campus will continue to feel the effects of reduced workforce, the student health insurance workgroup believes it would be appropriate to limit waivers in the future and resume granting waivers in only extreme or exceptional circumstances. This will benefits all parties; the students will not have to hunt for adequate coverage or spend time completing complicated forms and navigating an industry they are unfamiliar with; instead, they can have confidence in the plan that we present to them. Staff will no longer have to spend weeks of time vetting insurance documents, something they do not receive training to do, and instead focus their time and energy on providing services and outreach to students. Finally, if we increase our enrollment on the insurance plan, we will see the benefits of enrolling a larger client base, which could result in lower premiums, or at the very least, premiums that will increase at a minimal rate.

4. **Financial implications:** Some international students will still argue that this adjusted plan is still too expensive ($1748 for 12 months) and will want to shop around for more affordable coverage. When compared to neighboring states, this rate is quite competitive, especially given the benefits of the insurance policy. As far as financial implications for the colleges and universities, most schools will see a relief. The waiver process consumes a substantial amount of time for staff. Streamlining this process and limiting the amount of waivers will reduce labor, stress, and burden on our already taxed staff members.

To illustrate, if the same number of domestic and international students enrolled in the health insurance plan next year, here is a breakdown of the added costs and savings:

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<tr>
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<tbody>
<tr>
<td>359 Domestic</td>
<td>$896,064</td>
<td>$1,385,749</td>
<td>+$489,676</td>
</tr>
<tr>
<td>1634 International</td>
<td>$4,078,464</td>
<td>$2,856,232</td>
<td>($1,222,232)</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Comprehensive total: ($732,556)</td>
</tr>
</tbody>
</table>

Overall, we will save students across the NDUS $732,556.

5. **Legal/policy issues:** Because we have entertained one year of a more lenient waiver procedure, there will be some discomfort with returning to a stricter standard across the state. However, once this is in place and has some history and weight behind it, we will encounter better outcomes.

6. **Academic issues:** It is difficult to retain students when they experience a personal health event and do not have adequate insurance to seek appropriate care all while not incurring vast out-of-pocket costs. By ensuring that all international students enroll in our insurance plan, which has low deductibles and a low out-of-pocket maximum, we are providing extra “insurance” to their future as a student in the NDUS, should a health event transpire.

7. **Coordination:** On February 1, 2017, the Academic Affairs Council and on February 2, 2017, the Student Affairs Council voted in favor (with one school voicing dissent at the SAC meeting; no concerns brought forth at AAC), upon second read, to recommend approval for review by the Chancellor’s Cabinet and advance to the SBHE for approval/denial.
8. **Attachments:** Proposed edits are attached.

9. **Contact information:** Richard M. Rothaus, Ph.D., Vice Chancellor for Academic and Student Affairs, NDUS; Ph: 701-328-4136/email: richard.rothaus@ndus.edu.

10. **Chancellor’s Recommendation:** Approved at the February 8, 2017 Chancellor’s Cabinet meeting.
Summary of Proposed Action
State Board of Higher Education Meeting
Meeting – February 23, 2017

1. **Issue**: State Board of Higher Education Policy 605.3 requires twelve-month notice to terminate the appointment of a tenured faculty member due to loss of legislative appropriations, financial exigency, loss of institutional or program enrollment, consolidation of academic units or program areas, or elimination of courses. This timeline means that the process of eliminating the position of a tenured-faculty member is generally too lengthy to produce cost-savings within a biennium.

2. **Proposed actions**: The issue could be resolved by changing the notification period as indicated in SBHE 605.3 § 6 from “at least twelve months” to “at least ninety days”, as shown in the attached revision.

3. **Background information**: As points of comparison:
   - Probationary faculty can be terminated under similar situations as tenured faculty with at least 90 days’ notice (SBHE Policy 605.3 § 2).
   - A non-tenure track faculty member (special appointment) is terminated at the end of his or her contract term (SBHE Policy 605.3 § 3).
   - NDUS employees can be terminated due to organizational or procedural change, diminished workload, lack of funds, or other exigency, with at least two weeks written notice (NDUS Human Resource Policy Manual 24).
   - NDUS employees excluded from the broadbarding system who are not members of the academic staff, can be terminated under similar situations as tenured faculty with at least 90 days’ notice (SBHE Policy 608.2 § 3).

4. **Financial implications**: The revision of SBHE 605.3 will provide additional avenues for institutions to respond to financial or budgetary losses.

5. **Legal/policy issues**: Only the termination notice period is to be changed, and there are no additional legal or policy issues.

6. **Academic issues**: Reduction of tenured faculty positions can have substantial direct and indirect impacts to the ability to deliver quality academic programs.

7. **Coordination**: The proposed policy revision will be reviewed ten times, by six different groups.
   - Chancellor’s Cabinet, First Reading, 10 January 2017;
   - SBHE Budget and Finance Committee, First Reading, 17 January 2017;
   - SBHE Academic and Student Affairs Committee, First Reading, 18 January 2017;
   - SBHE, First Reading, 26 January 2017;
   - Administrative Affairs Council, 31 January 2017;
   - Academic Affairs Council, 1 February 2017;
   - Chancellor’s Cabinet, Second Reading, 8 February 2017;
   - SBHE Budget and Finance Committee, Second Reading, 14 February 2017;
   - SBHE Academic and Student Affairs Council, Second Reading, 15 February 2017; and,

8. **Attachments**: Revision of SBHE 605.3
9. **Contact information:** Tammy Dolan

10. **Chancellor’s Cabinet recommendation:** Approved.
A BILL for an Act to create and enact a new chapter to title 15 of the North Dakota Century Code, relating to freedom of speech at state institutions of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 15 of the North Dakota Century Code is created and enacted as follows:

Definitions. As used in this chapter, unless the context otherwise requires:

1. "Free speech" means the clauses of section 4 of article I of the Constitution of North Dakota and the first amendment to the Constitution of the United States which protect freedom of speech and forbid laws abridging freedom of speech.

2. "Peer-on-peer harassment" means discriminatory conduct directed toward a student on the basis of the student's real or perceived membership in a protected class which is so severe, pervasive, and objectively offensive that it deprives the student of access to the educational opportunities or benefits provided by a state institution of higher education. Peer-on-peer harassment does not include constitutionally protected expressive activity.

3. "Public forum" means an open, outdoor area on the campus of a state institution of higher education or any facility the institution has opened to students for expression.

4. "Semester" means one-half of an academic year at an institution of higher education.

5. "Student" means an individual enrolled in a course of study in a state institution of higher education, and organizations comprised of individuals currently enrolled at a state institution of higher education.

6. "True threat" means a statement through which the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular
individual or group of individuals, regardless of whether the speaker intends to carry out the threat.

**Freedom of speech policy.**

The state board of higher education shall adopt a policy on free speech that must apply to all students. The policy:

1. Must confirm free speech is a fundamental right, and each state institution of higher education is committed to free and open inquiry by students in all matters.

2. Must guarantee students the broadest possible latitude to speak, write, listen, challenge, and learn to discuss any issue that presents itself on campus.

3. May not shield individuals from constitutionally protected expression merely because it is considered unwelcome, disagreeable, or offensive.

4. May not prohibit any type of speech or expressive activity, except as otherwise provided in this chapter.

5. Must prohibit each state institution of higher education from restricting speech or expressive activity except for situations that involve:
   a. Violations of state or federal law.
   b. Expression that a court has deemed defamation.
   c. True threats or peer-on-peer harassment.
   d. An unjustifiable invasion of privacy or confidentiality.
   e. An action that directly conflicts with the function of an institution.
   f. Reasonable viewpoint-neutral and content-neutral restrictions on the time, place, and manner of expression, consistent with state law and in service of a significant institutional interest, if the restrictions are clear, published, and provide ample alternative means for expression. The restrictions must allow members of the university community to assemble spontaneously and contemporaneously and distribute literature in the open, outdoor areas of campus.

6. Must authorize any student to criticize and contest the views of the community of a state institution of higher education, except the student may not obstruct or otherwise interfere with the freedom of others to express views contrary to the student.
7. Must promote a lively and fearless freedom of debate and deliberation while protecting free speech when a state institution of higher education or its community condemns or attempts to restrict speech.

Bill of student rights.
The state board of higher education free speech policy must include a bill of student rights that:

1. Recognizes there are certain fundamental and indisputable rights to freedom of inquiry, freedom of thought, and freedom of expression in each state institution of higher education.

2. Encourages students to seek truth and knowledge and does not abridge the right of a student to reveal findings, by both spoken and written word, even if in so doing the student might be at variance with peers or the community.

3. Reassures students that dissenting or disagreeing with generally accepted truth and knowledge is acceptable and essential to free debate and inquiry, and that a student may not be subject to any non-academic punishment, discipline, or censorship by a state institution of higher education for the content of the student’s lawful speech.

4. Recognizes that, in exercising freedom of speech, students may not interfere with the academic process of a class.

Public assembly and expression.
Subject to the limitations in this chapter, each state institution of higher education shall allow peaceful assembly and the expression of ideas and opinions in any public forum to facilitate robust debate and the free exchange of ideas.

Limited restrictions on assembly and expression.

1. A state institution of higher education may require any individual who is not employed by or enrolled in the institution to obtain prior permission or authorization from the institution to use a public forum to demonstrate, protest, or assemble to exercise the right to free speech. If prior permission or authorization is required, the appropriate institution administrator shall evaluate the request using content-neutral and viewpoint-neutral criteria, and process the request within a reasonable length of time.

2. Subject to reasonable time, place, and manner restrictions, this chapter does not limit the right to student expression at any public place on the premises of a state institution.
of higher education if the expressive activity or related student conduct does not
substantially disrupt essential activities and functions of the institution by:

a. Substantially obstructing building entrances, walkways, and rights-of-way.
b. Obstructing vehicular or pedestrian traffic on or adjacent to the institution.
c. Interfering with classes, meetings, events, or ceremonies, or other essential
   processes of the institution.

Free speech notices.

Each state institution of higher education shall provide notice of the protections for free
speech in this chapter to all students, faculty members, and employees within seven days after
the commencement of each fall semester. The notice must be communicated by electronic mail
or other electronic communication, and must include the student bill of rights and the practices
prohibited by this chapter.

Violations - Injunctions.

If the state board of higher education or an institution under its control is in violation of this
chapter, a student may file a complaint or petition for an injunction in a court with proper
jurisdiction. If the student prevails in the court case, the court shall award actual damages, if
applicable, plus attorney's fees and court costs.