

## **NATIONAL DEBATE TOURNAMENT CODE OF CONDUCT**

This Code of Conduct seeks to foster and embrace a culture of respect, whether in the argumentative heat of a debate round or in the myriad professional and personal interactions that come together to create the experience of the National Debate Tournament. Academic debate can and must be frank, thorough, and based on dissent. At the same time, respect for all participants in the process is an irreducible minimum requirement. Respect is not incompatible with vigorous or even impassioned advocacy.

The Code has been prepared and adopted by the National Debate Tournament Board of Trustees and the National Debate Tournament Committee, and will be in effect for the 2014 and subsequent National Debate Tournaments.

All debaters, coaches, judges, staff, and all other individuals present at the National Debate Tournament, or participating in activities associated with the NDT, in any capacity whatsoever, are expected to know and are required to abide by this Code.

Coaches and program directors are encouraged to discuss the Code of Conduct with other participants prior to the NDT, and are expected to take any reasonable and necessary actions to ensure compliance by participants who are affiliated with their respective schools. By participating in the NDT or in activities associated with the NDT, each individual shall be deemed to have agreed to comport her or himself in accordance with this Code of Conduct. For the purposes of this document, "Code of Conduct" and "Policy" are used interchangeably.

### **POLICY**

All persons participating in the National Debate Tournament, or in any activity associated with the NDT, shall at all times and in all circumstances conduct themselves with respect for all other participants, during debate rounds and at all other times.

No participant shall suffer or cause discrimination or harassment during the course of, or in connection with, the NDT on the basis of any protected characteristic. Protected characteristics include age, color, religion, disability, race, ethnicity, national origin, sex, gender, gender identity, sexual orientation, marital status, veteran's status, or any other basis prohibited by any applicable law, regulation, or ordinance.

Violence or the threat of violence, whether or not motivated in whole or in part by any protected characteristic, has no place whatsoever in academic debate. Bullying and intimidation, whether or not motivated in whole or in part by any protected characteristic, has no place whatsoever in academic debate. Any such practice is absolutely prohibited at, or in connection with, the NDT.

In applying these principles, the NDT Committee and the NDT Board of Trustees shall employ a presumption of zero tolerance.

## **DISCUSSION, DEFINITIONS, AND PROCEDURES**

### 1. (a) The Legal Background:

Academic debate is largely self-regulating, and the rules and guidelines governing competition in the activity are themselves often open to discussion and modification in the course of individual competitive rounds. Notwithstanding this particular theoretical freedom, the debate community remains part of a larger world of academia, and subject to certain practical and legal constraints. Virtually all colleges and their sponsored activities are, for example, subject to federal law prohibiting discrimination or harassment on the basis of sex (Title IX of the Education Act Amendments of 1972), color, race, national origin (Title VI of the Civil Rights Act of 1964), disability (Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act), and other protected classifications. Other federal, state, and local laws and ordinances impose similar requirements on activities occurring in schools or other places of public accommodation.

Private bodies affiliated in one manner or the other with the NDT, as well as all individual educational institutions, have their own policies, which may also govern the conduct of certain participants at the NDT.

The American Association of University Professors Association Council has adopted the policy statement that “‘intimidation and harassment’ are inconsistent with the maintenance of academic freedom.”

The American Forensics Association regulations provide that “[a]ll tournaments should operate in an environment free of any behavior (whether verbal or nonverbal) that results in the harassment of any participant (whether student, coach or judge.)” “All participants in an AFA sponsored event shall recognize the rights of others and communicate with respect for opponents, colleagues, critics, tournament hosts and audience members. Behaviors by any tournament participants occurring at an AFA sponsored event that violate the community standard of a healthy educational environment shall be deemed” unprofessional conduct and subject to sanctions.

This Policy supplements, and does not supplant, any other applicable policy. It is incumbent upon the participants in the NDT to ensure full and enthusiastic compliance with the anti-discrimination and anti-harassment goals of these provisions, as well as any requirements imposed by their individual colleges or universities.

(b) All Participants are Protected:

Existing federal and state laws and local ordinances, university and organizational policies, and this Code of Conduct, protect everyone. Every person has a gender, a race, a color, a sexual orientation.

The policy prohibits discrimination or harassment based on a protected characteristic no matter who is being harassed, and no matter who is doing the harassing. It is equally forbidden to discriminate against a male for being male; to harass an Asian for being Asian; to denigrate a white male for being a white male; to abuse a heterosexual for being heterosexual, or to discriminate against a light-skinned person of color in favor of a dark-skinned person of color.

Harassment based on a protected characteristic violates this policy even if the harasser shares the same characteristic. Men may not harass men based on their gender; African-Americans may not harass African-Americans based on their race.

(c) Policy against Violence and Threats:

This policy's prohibition on violence or threats of violence is independent from any consideration of protected category, or whether the threat or violent conduct rises to the level of "harassment." The prohibition on violence or threats of violence is unconditional. A "threat of violence" is either an explicit threat of violence, or any action, oral or physical, that creates in the target or other observer a reasonable perception that violence is, or may be, imminent or intended.

(d) No legal rights created:

This Policy is not intended to create any legal right, or to create any cause of action in favor or against any person. This Policy does not attempt to define any term or conduct for purposes of any law, but rather only for the purposes of the Policy itself. This is an internal policy of the National Debate Tournament.

2. For purposes of this policy, the term "harassment" means any act or course of conduct that:

- (a) is predicated on or derogatory of a protected classification, such as sex, race, or national origin;

- (b) is offensive to the recipient of the conduct, and would be offensive to a reasonable person in the same situation or circumstances as the recipient of the conduct;
  - (c) is severe in nature or pervasive in extent, or both, under the circumstances, and
  - (d) interferes materially with an individual's participation in the NDT or any associated activity, or creates an environment that is intimidating or hostile, or which substantially disrupts or interferes with the orderly operation of the NDT or the rights of any person to participate in or benefit from the activities of the NDT.
  - (e) Such conduct may include threats; gestures; making remarks which are by common usage lewd, obscene, or may expose a person to hatred; or any other conduct which is sufficiently severe, pervasive or persistent so as to interfere with or limit a person's ability to participate in, or benefit from, the services, activities, or opportunities offered by the NDT.
3. Examples of prohibited harassment include the following. *Even a single instance of such conduct may be sufficiently severe, or pervasive, to violate this Policy.*
- (a) A judge states or implies that the judge's assessment of a debate round may be affected by the grant of sexual favors from a debater or some other person affiliated with a debate team.
  - (b) A participant engages in intentional, unwelcome, and offensive touching of another participant, based at least in part on sex. Such an offensive touching may, or may not, involve contact with sexually-sensitive areas of the body.
  - (c) A participant utilizes derogatory, demeaning, or degrading language to describe another participant, based at least in part on a protected classification. Examples would include labeling another participant as a "bit\*h," "c\*nt," "n\*\*ger," "gimp," "fag," or the like. Demeaning or degrading language that does not use lewd or prohibited words can also constitute harassment; examples would include stereotypical references that may imply derogation, such as "rice eater," "fried chicken eater," or "camel jockey," or statements that play on stereotypes or group prejudices (e.g., "cheap Scotsman" or "Jewish nose").
  - (d) A participant exhibits obscenity, or other imagery that is intentionally derogatory, demeaning, or degrading, based at least in part on a protected classification. Examples would include the gratuitous exhibition of violent pornography or of a graphic photograph of a lynching.

- (e) A participant inflicts mental or emotional distress upon a person through a course of conduct involving abuse or disparagement of that person's race, religion, sex, color, sexual orientation, disability, national origin, or other protected characteristic.
  - (f) A participant engages in conduct that is abusive or disparaging of any race, gender, sexual orientation, or other protected characteristic, even if that conduct is not directed towards a particular individual sharing that characteristic.
4. Violence and threats of violence are absolutely prohibited. A "threat of violence" is either an explicit threat of violence, or any action, oral or physical, that creates in the target or another observer a reasonable perception that violence is, or may be, imminent or intended. Participants must not engage in behavior that threatens the safety, security, or functioning of the NDT; the safety and security of other participants, or the safety and security of others. Orderly conduct is required of all participants at any activity associated with the NDT.
- (a) Participants, either individually or as a group, shall neither cause violence nor threaten violence. No participant shall commit any assault, battery, unwelcome body contact or touching, or the impeding or blocking of safe movement.
  - (b) This policy includes the prohibition of bullying. "Bullying" includes physical intimidation, taunting, name-calling, or insults; or the making of false or derogatory statements about another.
5. Coaches, program directors, judges, and other individuals who may be (or who may reasonably be perceived to be) in a position to exert power or undue influence over other participants, and particularly over student-debaters, should be particularly aware of their responsibilities to avoid harassment or discriminatory actions.
- (a) Judges, researchers, and assistants, like coaches and program directors, should consider themselves to be educators who will lead by deed as well as by word.
  - (b) Coaches, program directors, judges, researchers and assistants should scrupulously avoid using their position, or their perceived position, as leverage either to engage in inappropriate exclusion of individuals based on a protected classification (for example, excluding individuals from activities based on national origin) or to engage in inappropriate relationships.

- (c) Coaches, program directors, judges, researchers and assistants must ensure their conduct complies with this Policy during all facets of the NDT, including situations that may generate inherent tension, such as during a judge's explanation of her or his reason for decision in a particular round.
6. Any individual who believes that an accommodation for a disability, or an accommodation for a religious belief or preference, would be appropriate and reasonable in connection with that individual's participation in the NDT, is encouraged to contact the Code of Conduct Committee as far in advance as possible. The NDT will engage in an iterative process to determine the need for and character of any reasonable accommodation.
  7. Harassment, discrimination, threats of violence, or other abuse may occur based on conduct in or outside of a debate round. For example, harassment may occur at the NDT tournament site, at the tournament hotel, or at an outside activity associated or affiliated with the tournament, such as a tournament meal, committee meeting, or award ceremony. Harassment may also occur during a debate speech or cross-examination, or during preparation, waiting, or decisional time in a debate round.
    - (a) Intentional and offensive verbal or physical conduct that is intended to constitute a part of relevant argumentation during a debate round can constitute harassment. The NDT Board of Trustees and the NDT Committee are aware that scrupulous attention must be paid to principles of free speech and open argumentation. However, by the adoption of this policy, the NDT Board of Trustees and the NDT Committee signal their conclusion that inappropriate harassment or threatening conduct should never occur at the National Debate Tournament, even where it is intended as part of an argument made during a debate round. This conclusion is consistent with the conclusions reached, unanimously, by institutions of higher education in their promulgation and enforcement of anti-discrimination, anti-harassment, and student conduct policies. This conclusion also is consistent with governing legal principles.
    - (b) Intentional and offensive conduct that occurs during the debate round, yet outside the context of argumentation, of course remains harassment. For example, use of a denigrating term to refer to an opponent, judge, or class of persons – even during a speech – generally serves no legitimate argumentative purpose and may constitute harassment. Intentional and offensive touching or the making of personal threats will never serve any legitimate argumentative purpose, and may also constitute criminal battery or assault.

- (c) This Policy governs the conduct of participants at the NDT in all activities associated with the NDT. The Code of Conduct applies to interactions at tournament meetings, meals, announcements, and at the tournament site. This Policy also governs the conduct of participants at the NDT in other or post-tournament activities arising from the NDT, such as discussions of results, arguments, individuals, ballots, and the like by participants in social media.
- (d) The overarching aim of academic debate is to teach, exhibit, and enhance reasoning skills, research abilities, and persuasive modalities. The competitive aim of debate rounds at the NDT remains to persuade the judge as to which team did the better job of debating, and not to shock or intimidate one's opponents, the judge, or an audience. Conduct that "interferes materially with an individual's participation in the NDT or any associated activity, or creates an environment that is intimidating or hostile," does not serve any legitimate purpose of the National Debate Tournament, even if it purports to be part of an argument.

8. Procedures:

- (a) The Chair of the NDT Committee shall appoint a Code of Conduct Committee, which shall be responsible for enforcement of this Policy. At least one member of the Code of Conduct Committee shall be a member of the NDT Board of Trustees. The committee shall consist of not fewer than five, nor more than seven, individuals. In appointing members of the committee, the Chair of the NDT Committee shall take into consideration such factors as breadth of experience in the activity; maturity of judgment; diversity with respect to demographic factors; representation of large, small, public, and private institutions; any particular expertise required, and any other factors the Chair shall deem appropriate. Membership on the NDT Committee or on the NDT Board of Trustees, or affiliation with a team competing at any given NDT, shall not be a prerequisite for membership on the Code of Conduct Committee.
- (b) The overarching goal of the Code of Conduct is to reinforce the appropriate and usually exemplary behavior exhibited by essentially all participants at essentially all National Debate Tournaments from 1949 through the present. The NDT Committee and the NDT Board of Trustees are confident that incidents of harassment or discrimination in connection with the National Debate Tournament will remain extremely rare or nonexistent.

- (c) It is not the purpose of the Code of Conduct to create another tool for competitive challenges to appropriate argumentation and debate. The NDT is sensitive to the possibility that a small number of individuals, whether or not associated with a team, may perceive this Code as offering an opportunity to gain a competitive advantage through the making of complaints in unwarranted circumstances. The Code of Conduct Committee will not look kindly upon misuse of the Code of Conduct as a tactical tool. Harassment and discrimination are serious matters, and the making of a willfully false or frivolous complaint is, correlatively, also a serious matter, which may be subject to the same sanctions as are set forth for harassment or discrimination. Given the nature of the offense, it is inevitable that some complaints will raise close or narrow issues of fact or interpretation, and there is no desire to deter those complaints, even if it is eventually determined that no violation of this Policy has occurred. Baseless complaints interposed for competitive advantage will, however, be subject to sanctions.
- (d) Any individual who seeks to make a complaint of harassment or discrimination at or in connection with the National Debate Tournament should immediately contact a member of the Code of Conduct Committee. The Code of Conduct Committee or its designee(s) shall promptly conduct an investigation of the matter, with due regard for the privacy of all parties and witnesses to the greatest extent possible consistent with adequate investigation. However, the nature of the conduct may make it impossible to conduct an investigation without apprising witnesses, as well as the accused, of the nature of the accusations. The Code of Conduct Committee shall then take such action as it deems appropriate under the circumstances, including the imposition of sanctions. Sanctions may be imposed by majority vote of the members of the Committee present at the tournament, or under such other strictures as the Code of Conduct Committee itself shall adopt. If the Code of Conduct Committee or its designee determines that interim action is immediately necessary, prior to completing an investigation and due to the nature of the allegations, the Committee or its designee may immediately take such actions. In the rare case of a complaint that appears to raise the possibility of an intentional violation of a criminal law, the Committee or its designee may report those allegations to appropriate authorities.
- (e) The nature of sanctions the Code of Conduct Committee may impose will necessarily vary, based on the type of conduct found to have occurred as well as the role of the individual who has committed the conduct. For example, a sanction against a debater who has engaged in harassment may involve some competitive consequence, whereas an assistant team researcher's violation of the Code of Conduct may or may not appropriately be imputed to the team, and in some circumstances may not

properly implicate a competitive consequence. The Code of Conduct Committee may impose some or all of the following sanctions, based on a finding that this Policy has been violated, taking into account the seriousness of the offense, the nature of the injury caused (if any), and all other circumstances the Code of Conduct Committee may find to be appropriate:

- (i) A confidential letter of admonition or censure to the offender (usually appropriate only in the case of a *de minimis* first offense);
- (ii) A letter of admonition or censure to the offender, also provided to the director of the debate program with which the offender is associated;
- (iii) A letter of admonition or censure to the offender, also provided to the administration of the college or university with which the offender is associated;
- (iv) The making of a formal complaint to the appropriate governing board of the offender's college or university, such as the university Title IX Coordinator or Honor Council;
- (v) Limitation of or prohibition on the offender's attendance at the remainder of the current NDT, or at future National Debate Tournaments;
- (vi) Competitive sanctions at the current NDT, including reduction or elimination of speaker points; losses of ballots or rounds; preclusion from elimination rounds; preclusion from speaker award recognition, or such other competitive consequences as the Code of Conduct Committee deems appropriate in the circumstances.

The Code of Conduct Committee may take into consideration whether the proscribed conduct was a first offense or a repeat offense. A record of sanctions, including confidential admonition and censure, shall be kept for purposes of imposing future discipline.

- (f) A decision of the Code of Conduct Committee (or its designee) imposing, or declining to impose, sanctions, may be appealed to the Appeals Committee of the NDT. A decision of the Code of Conduct Committee (or its designee) imposing a sanction under subparagraph (e)(v), or preclusion from the elimination rounds under subparagraph (e)(vi), or declining to impose sanctions, may be appealed to the NDT Committee, at

the appealing party's option. Only one level of appeal shall be utilized in any case. The determination on appeal shall be unreviewable and final for all purposes. An appeal involving any sanction other than prohibition at future National Debate Tournaments must be made as soon as practicable, but in any event must be made (for conduct occurring before the elimination rounds) before the announcement of the elimination rounds. The Appeals Committee and the NDT Committee may provide for the manner in which such appeals may be decided, including delegation of authority for deciding appeals (save that such authority may not be delegated to the Code of Conduct Committee or any member thereof), and including the number of members of such committee who shall constitute a sufficient quorum for action on an appeal.

- (g) Nothing in this Policy prevents or restricts individual judges from exercising their independent discretion in awarding or withholding speaker points, ranking, wins or losses, based on inappropriate or offensive behavior that may also violate this Code of Conduct. Individual judges taking action based on their independent discretion as to conduct that may also violate this Policy are encouraged to report any violations or perceived violations to the Code of Conduct Committee. The imposition of individual discretionary consequences by one or more judges shall not preclude the Code of Conduct Committee from imposing additional sanctions. The Code of Conduct Committee shall have no authority to reverse or revise any competitive demerit (as to speaker points, rank, win, or loss) imposed by an individual judge.
  - (h) The NDT emphasizes that each and every individual participating in the NDT, or in any event associated with the NDT, is deemed to have agreed to this Code of Conduct. Given that predicate, each individual participating in the NDT, or in any activity associated with the NDT, agrees that any action taken in good faith by the NDT Board of Trustees, the NDT Committee, the Code of Conduct Committee, any witness or participant in any investigation, any complaining party, or any member, employee, attorney, agent, or designee of any of those bodies or persons, pursuant to this Code of Conduct, shall not give rise to any claim or cause of action whatsoever, of any kind, against any person, including specifically but not exclusively any claim for defamation, libel, or slander.
9. No retaliation shall be permitted arising out of the making of, or action taken in connection with, a good faith complaint of a violation of this Policy. Every individual participating in the NDT, or in any activity associated with the NDT, has the right to make a complaint under this Code of Conduct, without fear of retaliation. Participating in the investigation of a complaint, making a complaint on behalf of another, providing evidence relating to a complaint (regardless of

whether the evidence supports or tends not to support the complaint), and all similar activities, are protected against retaliation by any person

- (a) Other than for the filing of a willfully false or frivolous complaint, no adverse action of any kind whatsoever may be taken – by any person -- against any person making a complaint under this Code of Conduct, even if the complaint is ultimately determined to be unfounded.
- (b) Any act of retaliation – by any person – shall itself constitute a violation of this Code of Conduct, and will be subject to the complaint and sanction policies and procedures set forth above.