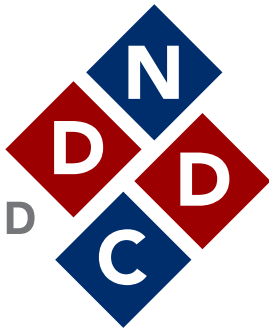


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[USNDDC.ORG](https://usnddc.org)

Best Practices in Crafting & Implementing Distracted Driving Legislation

September 2024

PREPARED BY

Jennifer Smith | [Stopdistractions.org](https://stopdistractions.org)
Omar Masood | Advocates for Highway & Auto Safety
Angela L. Nelson | Auto Club Enterprises - AAA Missouri
Michelle May | Ohio Department of Transportation

National Distracted Driving Coalition (NDDC)

The National Distracted Driving Coalition (NDDC) was formed in March 2021 to address distracted driving which is a contributing factor to road deaths and injuries. This road safety issue is a priority concern shared by many organizations across many sectors. A diverse cross-section of entities, representing academia, non-profits, government, advocacy, and industry, including insurance, transportation, automotive and technology, have come together to create a National Action Plan to tackle this important issue.

Vision

To accelerate national efforts to implement effective interventions and encourage attentive driving by eliminating distractions.

Mission

To promote innovative and collaborative approaches to create a traffic safety culture of attentive drivers.

Disclaimer

The views and conclusions expressed are those of the authors and have not been sponsored, approved, or endorsed by their affiliated organizations. The National Distracted Driving Coalition (NDDC), formed by the National Transportation Safety Board, is composed of diverse members and stakeholders representing a variety of organizations, including non-profits, industries, governments and communities. The diversity of views and opinions is a key feature of the NDDC designed to encourage the development of innovative approaches to preventing distracted driving. This strategy enables the NDDC to explore multiple tactics to reduce distracted driving crashes. In light of this diversity, it is unlikely consensus can be achieved across all organizations with respect to materials produced. NDDC participation does not suggest all organizations necessarily agree with, or support, NDDC proposals, recommendations, or educational materials, and it would be improper to impute any one organization's agreement with, or support for, NDDC proposals, recommendations or materials solely on the basis of NDDC participation. Similarly, organizations may advance views or positions that do not necessarily represent the NDDC. Those beliefs, opinions, or statements should be considered to be solely those of the individual organization and not of the NDDC.

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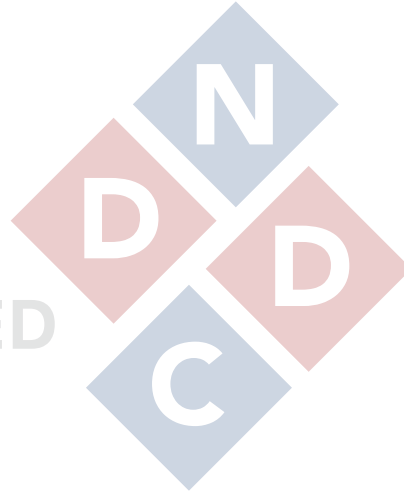
Jennifer Smith | Stopdistractions.org

Omar Masood | Advocates for Highway & Auto Safety

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Michelle May | Ohio Department of Transportation

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Sub-committee members

Jennifer Smith
Executive Director
Stopdistractions.org

Omar Masood
Director of State Government Relations
Advocates for Highway & Auto Safety

Angela L. Nelson
Vice President, Public Affairs and Government
Relations
[Auto Club Enterprises - AAA Missouri](#)

Michelle May
Manager, Highway Safety Program
Ohio Department of Transportation

Steering Committee

A list of members of the NDDC Steering Committee is available at: usnddc.org/about

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Purpose

Traffic safety legislation is an important first step to encourage safe driving and discourage driving distractions. Laws set social norms for how drivers behave and empower law enforcement to act when they see dangerous driving.

Laws, when combined with fair and consistent enforcement and education, can be an important tool in the fight against distracted driving. It's also a key strategy of the Safe System Approach, working in combination with other strategies to encourage "Safer People" to act responsibly as they use our public roads.

But the law is only as good as our ability to understand and enforce it. That's why it's important to ensure the laws passed and the language used is clearly understood, that it encompasses a broad range of dangerous activities, and that it's easily enforced by law enforcement officers operating in different jurisdictions across the country.

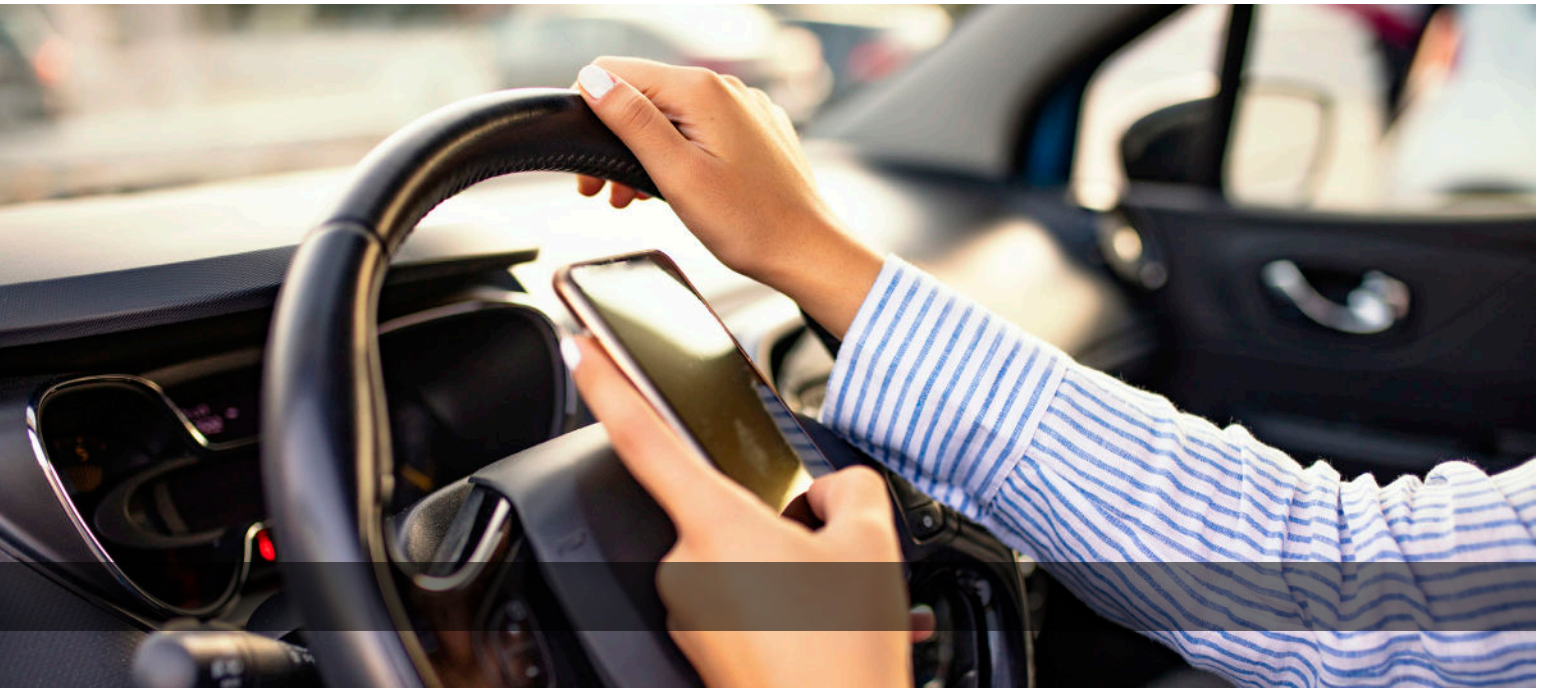
The purpose of this white paper is to educate and inform stakeholders, including policymakers, law enforcement officers, safety advocates, and the public, about the current state of distracted driving laws in the United States. By examining recent statistics, legislative developments, and model language for distracted driving laws, this report aims to shed light on the multifaceted nature of the problem and provide strategies which effectively discourage distracted driving in every state.



Background

Distracted driving has emerged as a critical issue in contemporary society, profoundly affecting road safety in the United States. As fatalities on U.S. roads remain high, the need to address this problem has become increasingly urgent.

Distracted driving includes a wide range of activities that divert a driver's attention away from the primary task of operating a motor vehicle. This may include texting, talking, and scrolling on a cell phone; visual distractions like video chatting, streaming and recording content behind the wheel; and eating, adjusting the radio, or using in-car technology. These distractions pose a significant threat to drivers, passengers and other people who share the road. The ubiquity of smartphones and in-car technology has compounded the problem, making it much more challenging to combat.



Today, distracted driving is considered a leading contributor to road deaths and injuries in the United States and many other countries around the world.

In 2021, the National Highway Traffic Safety Administration estimated that distracted driving was a contributing factor in 12,405 traffic deaths, or 28% of all traffic deaths nationwide. The cost to society was \$158 billion. This estimate was derived from a validated imputation model which compensates for the fact that distracted driving is under-reported.

While any distraction behind the wheel can result in a crash, research has shown that distractions involving visual and manual activities, such as interaction with an electronic device, pose a higher crash risk. But since these distractions are difficult to detect and prove, many of our nation's crashes each year are attributed to other factors, obscuring the true human toll and economic impact on society.

History of Distracted Driving Laws

In the 2000s, many states began developing laws that specifically targeted distracted driving behaviors. These early laws primarily addressed the use of handheld cellular phones for speaking while driving. Over time, as the prevalence of mobile devices increased, so did recognition that comprehensive legislation is increasingly necessary to keep pace with technological advancements.

Today, the legal landscape surrounding distracted driving is more complex than ever before. As of Fall 2023, 49 states and the District of Columbia have taken steps to address distracted driving through texting bans and 31 states have enacted some form of a hands-free law. However, the laws differ in terms of their scope and ease of enforcement.

The variability in state laws is influenced by several factors, including the severity of the problem in each state, public opinion, and legislative support. While all states strive to address distracted driving, the approaches taken can differ in scope and stringency based on each state's aim to balance competing priorities. For example:

- Some states have adopted comprehensive hands-free laws which prohibit the use of handheld electronic devices while driving. These laws typically require drivers to use hands-free technology, such as Bluetooth, for phone calls and limit physical interactions and distracted viewing with electronic devices while the vehicle is in motion. These laws may impose additional restrictions for novice drivers.
- Some states are advocating for modern language in existing laws to clearly define hands-free and close any loopholes allowing handheld phone use while driving. Some laws may result in permissive hands-free use while limiting handheld use.
- Others are pushing for stronger laws that would ban all handheld phone use and increase penalties for violators.
- Finally, some states have chosen to enact more limited restrictions, focusing on specific types of distractions or targeting only novice drivers and school bus operators.

All these legislative choices affect the enforceability of local ordinances and state laws.

Key Elements & Model Legal Language

The Transportation Research Board (TRB) recently published a report that reviewed legislation in 50 states, the District of Columbia and 10 Canadian Provinces. It focused on language and penalties used to address electronic device use while driving. According to the research, ordinances and laws can be classified into a few broad categories:

- **Primary or secondary violation.** A primary violation allows officers to stop drivers and issue a citation if they witness a distracted driving offense. For a secondary violation, officers must witness another traffic violation first before drivers can be stopped and cited for distraction.
- **Behavior covered.** Behaviors may include texting, manipulating or dialing, or using a handheld electronic device.
- **Drivers covered.** In most jurisdictions, the laws apply to all drivers. However, in some jurisdictions, the law applies to specific groups of drivers like school bus drivers, teen drivers, or drivers in a graduated driver licensing (GDL) program.
- **When the law is enforceable.** For some states, electronic device use is only considered a violation when the vehicle is in motion. Other states make it a violation at all times meaning anytime it occurs on a public road.
- **Exemptions.** Many states allow exemptions to the law, most often for contacting emergency services, use by emergency personnel and hands-free use.
- **Penalties & fines.** Many jurisdictions assign fines and points to the driver's license for violating the law.

Several organizations, including TRB and the National Conference of State Legislators, have developed model legislation that stakeholders can use to enact stronger more effective legislation.

Their proposed language considers current and future technologies and the ease of enforcement. These model laws also attempt to stop the most dangerous distracted driving behaviors, such as activities that take a driver's eyes and attention off the road for an extended period of time.

The BTSCRP Report [Using Electronic Devices While Driving: Legislation and Enforcement Implications \(2021\)](#) identifies the following components as most critical to developing effective legislation:

- **Electronic device.** Using more generic language instead of "cell phone" or "mobile device" can extend the reach of the law to include any electronic and computerized devices, including wearables like smart watches or glasses. The generic language also extends coverage to new electronic technologies not yet developed and available.
- **Effective anytime the vehicle is in the travel lane.** Drivers should only be allowed to use electronic devices when the vehicle is legally parked or pulled over on the side of the road and not in motion or in gear. This language makes the law easier to enforce.
- **Clearly defined behaviors.** The law should clearly state activities prohibited for drivers such as:
 - Hold or support an electronic device with any part of the body.
 - Use an electronic device to manually dial numbers, input text, or engage in multiple swipes and/or taps. This includes when the device is used in hands-free mode.

- Use an electronic device to stream, record, or broadcast video. This includes when the device is used in hands-free mode.
- Use an electronic device or applications on the device that display motion on the screen (except GPS or navigational software). This includes when the device is used hands-free (mounted, affixed, or resting somewhere in the vehicle).
- **Appropriate fines & penalties.** Fines and penalties should be proportional to the risk posed and in line with other traffic safety laws and serious offenses for the jurisdiction. For example, ordinances and laws should have:
 - Incremental fines to discourage subsequent offenses.
 - Points against a driver's license which may result in temporary suspension or loss of a license. This may be more effective at modifying behavior than monetary fines because points on a license can lead to increased insurance rates. Some jurisdictions use a point penalty structure similar to other serious offenses, such as driving under the influence (DUI).
- **Minimal exemptions.** The law should have minimal exemptions. The most common and acceptable exemptions are:
 - To report an emergency
 - Law enforcement and first responders in the scope of their duties
 - Use of GPS or hands-free navigational systems, but no allowance for manual entry while driving or distracting viewing activities.
- **Novice drivers.** It is recommended that drivers under the age of 18 be restricted from using any electronic device, including hands-free. The crash risk of young, novice drivers is higher in comparison to older adult drivers (age 20+) with more experience on the road. To illustrate, in 2012, the crash risk of young, novice drivers aged 16-19 in the US was approximately triple in comparison to those who were 20 years or older. In fact, the crash risk was greatest among those aged 16-17 years; a time when many are beginning to drive independently (Insurance Institute for Highway Safety 2014). Moreover, distraction is one of the leading risks in crashes involving teen drivers. Despite teens representing just six percent of all drivers dying in collisions, 10% of all drivers identified as distracted at the time of a crash were teens, as were 11% of all drivers dying in cellphone-related crashes (NHTSA, 2015). More recently, NHTSA reported there were 218 young drivers (15-19) involved in distracted driving fatal crashes in 2022. In addition, in the same year there were 193 teens in this age range killed in distracted driving crashes and 235 people killed in collisions in which a teen driver (age 15-19) was distracted (National Center for Statistics and Analysis, 2024).

Research shows that young drivers have less experience and are less likely to crash when distractions like passengers (Allen and Brown 2008; Brown et al. 2008; Gardner and Steinberg 2005; Steinberg 2011; Goodwin et al. 2012; Simons-Morton et al., 2011) and electronic devices are prohibited (Ferguson, 2003; Klauer et al., 2014; Goodwin et al., 2016; Gershon, P. et al., 2022). Exceptions can be made for reporting emergencies.

- **Provisions for drivers that causes serious injury or death.** For example, Jake's Law in Maryland states, "A driver that causes serious injury or death while talking on a handheld cell phone or texting may receive a prison sentence of up to three years and a fine up to \$5,000" (Chapter 248, 2014).

Key definitions and sample text for legislation can be found in Appendix D of the [Behavioral Traffic Safety Cooperative Research Program Report: Using Electronic Devices While Driving: Legislation and Enforcement Implications \(2021\)](#).

Strategies to Pass Legislation

There are several strategies that advocates and policymakers can use to pass distracted driving legislation:

- **Educate the public and policymakers about the dangers of distracted driving.** It is important to raise awareness about the issue and help people understand the potential consequences of distracted driving. Preparing short briefing notes summarizing key findings from research combined with data to demonstrate the problem are most useful for this audience.
- **Build coalitions and partnerships.** Working with organizations and advocacy groups that are committed to reducing distracted driving can help build support for legislation. A coalition can work together to develop strategies, combine resources, share responsibilities and assignments, and plan community and lobbying activities in support of the legislation. More importantly, coalitions can speak with one voice and deliver a clear message to legislators that is not confused with conflicting ideas and perspectives.

Key partners include local and state highway safety officials, law enforcement, medical personnel and first responders, the judiciary, department of motor vehicles, political leaders such as legislators and state governors, public health officials, insurance industry, community leaders, universities, and research centers. An important step is to determine which groups of people have the ability to lobby and those who do not. Victim advocates are also critical. They serve as leading voices for stronger distracted driving laws.

Advocates for a coalition may be involved in testifying, talking to the media, collecting, and sharing data, and generating grassroots support for the legislation. The beginning of the legislative session is go time, not start time.

- **Use data and research to build support for legislation.** Data and research can help demonstrate the need for the legislation and provide evidence of its potential effectiveness. Coalition partners can assist with collecting, analyzing and distributing data like crash, citation, observational and public opinion data. It is also important to use data from reputable, independent sources, such as the U.S. Department of Transportation or the state transportation agency, and that the coalition is adhering to the same data set.
- **Engage with the media.** Working with the media can help raise awareness and build support for legislation. This can be done through press releases, TV and radio, public service announcements, social media, public events and school programs. You can maximize the message by pairing it with an event, developing a compelling headline and story, and tailoring the message to each audience. Outreach should also provide a clear “call to action.”
- **Work with elected officials and policymakers.** It is important to engage with elected officials and policymakers and provide them with the information and support they need to understand the issue and act. Impacted constituent families, local advocacy organizations, the public health and medical community and emergency responders are vital to this outreach.

More information can be found in the Appendix [Behavioral Traffic Safety Cooperative Research Program Report: Using Electronic Devices While Driving: Legislation and Enforcement Implications \(2021\)](#).

Lessons Learned from Other States

It is important to acknowledge that implementing distracted driving laws may face various challenges, including concerns about privacy, the feasibility of enforcement, and the balance between regulation and personal freedom. Compromise is often necessary, and each coalition will have to decide if compromises are worth the outcomes. For example, secondary enforcement laws have been shown to result in reduced safety benefits.

However, states that have successfully overcome these challenges have shown a significant reduction in distracted driving behavior and crashes, demonstrating the positive impact of legislation (Kirley et al., 2023; Flaherty et al., 2020; Zhu et al., 2021; Reagan et al., 2023).

Some potential compromises that may help a distracted driving law get passed include:

- **Gradual implementation.** Gradually rolling out the law in stages, rather than implementing it all at once, may help to ease political opposition. It is important that clear deadlines are included. For example, warnings for the first six months following enactment and then full implementation on a specific date. Of course, all of these dates should be well-publicized.
- **Equity concerns.** Some legislators and constituents may oppose distracted driving laws due to concerns about racial profiling. Many states have addressed these concerns by including equity data collection as a component of robust data requirements and bias protections as part of the law. Examples include requiring publicly accessible data analysis and annual reports in the law, as well as specific provisions that identify how inequities will be addressed. There are also grants available to states in supporting the implementation if certain parameters are met. See U.S. DOT [Highway Safety Grant Programs](#).
- **Focused enforcement.** Prioritizing enforcement during high-risk times and locations, rather than a blanket ban, can help address the concerns of some opposition. Selection of these locations must be based on objective, documented, traffic safety data.
- **Education and awareness campaigns.** Including provisions for education and awareness campaigns alongside the law can help increase public support and understanding.
- **Technology-neutral approach.** Making the law technology-neutral and focusing on behaviors rather than devices can help address concerns about specific technologies. In this approach, all distracting uses should be included in the restrictions so that one distracting behavior is not traded for another. Comprehensive laws are key.
- **Flexibility.** Allowing for exemptions in certain circumstances, such as in emergency situations, can help to address concerns about the practicality of the law.

Other Considerations

Once you've passed a law, public education, enforcement and evaluation of the law becomes critical. Long-term behavior change relies on a sustained, long-term plan that incorporates all these strategies.

The Governor's Highway Safety Association and Cambridge Mobile Telematics published a new report in 2024 entitled [A Roadmap for Safer Roads](#) which highlights the importance of these strategies.

A key finding from the report is the effectiveness of hands-free laws can decrease over time without sustained public awareness and media attention. The report illustrates the critical role the media can play

and how states can use media attention and public awareness campaigns to sustain public attention to promote long-term behavior change.

Below are additional factors to consider in developing public education campaigns and enforcement efforts in your state.

Public education campaigns serve as a critical component of a multifaceted approach to reducing distracted driving behavior and crashes.

A well-designed education campaign initially targets all segments of the population, including drivers of all ages, ethnicities and backgrounds, and can use a variety of media and messages to reach these audiences. A successful education campaign encourages drivers to adopt safe behaviors and attitudes, such as putting down their cell phones while driving and being mindful of the distractions that can impact their driving. By changing attitudes and behaviors, education campaigns, coupled with clear laws and consistent enforcement, can have a lasting impact on reducing distracted driving and saving lives (Robertson & Pashley, 2015).

Ohio passed a primary handsfree law in 2023. Here is a link to sample materials that can be used to promote public education: [Phones Down. It's the Law. | Ohio Department of Transportation](#)

Enforcement is a critical component of any traffic safety law, including distracted driving. Law enforcement agencies play a crucial role in detecting and deterring violations. Effective enforcement requires not only the establishment of appropriate legal language but also the allocation of resources for training and tools. Law enforcement officers need the training to identify distracted driving violations, specialized tools to enforce these laws effectively, and the dedicated time and resources to conduct enforcement efforts. Examples of training and law enforcement techniques can be found in Appendix G of [Behavioral Traffic Safety Cooperative Research Program Report: Using Electronic Devices While Driving: Legislation and Enforcement Implications \(2021\)](#).

There are also various federal grants available to states for implementing and enforcing laws related to distracted driving.

Section 402 State & Community Highway Safety Grant Program. The Section 402 program provides grants to states to improve driver behavior and reduce deaths and injuries from crashes. States rely on this funding for a variety of traffic safety related issues including distracted driving. [Section 402 State and Community Highway Safety Grant Program | GHSA](#)

Section 405 National Priority Safety Program –Section 405(e) Distracted Driving. This is a NHTSA grant specifically earmarked to provide distracted driving incentive grants. States are eligible for the grant under a variety of circumstances including enacting legislation that prohibits texting, handheld cell phone use or banning the use of all electronic devices for all drivers aged 18 and younger. [Section 405 National Priority Safety Program | GHSA](#)

Section 1906 Racial Profiling Prohibition Grants. This program provides grants to help states gather and maintain statistical information on the race and ethnicity of the driver for all motor vehicle stops on public roads. The program also supports state efforts to develop and implement programs, public outreach and training to make traffic enforcement fair and equal for everyone. [Section 1906 Racial Profiling Prohibition Grants | GHSA](#)

Evaluation. To sustain the success of the law, it's important to conduct a periodic evaluation of its impact. Effective programs collect the needed data to track success, identify limitations, and use the information to direct future activities. States can use a variety of information, including crash, citation, telematics, and observational survey data to monitor progress and identify areas for increased enforcement and education. There are several states that have recently passed hands-free laws that can provide examples of these activities. An overview of important issues to consider when [evaluating distracted driving laws](#) was published by the National Distracted Driving Coalition (Robertson, et al., 2024)

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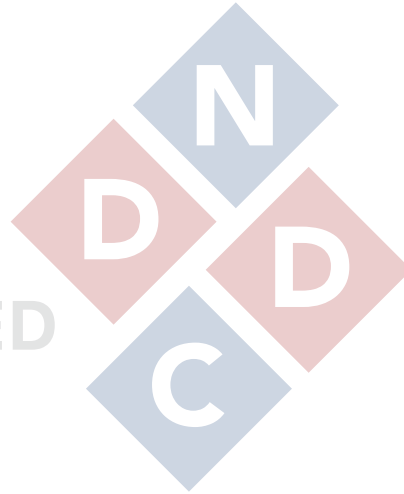
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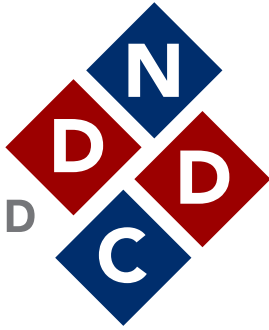
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