

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Sexual Harassment

NUMBER: 1:17

1. Educational institutions play a special role in preparing students to lead the complex social organizations through which businesses and professions operate and through which free people govern themselves. Students must be taught, *and they must be shown through the example given by institutional employees*, that stable, effective and prosperous social organizations observe norms of conduct under which all participants are expected to treat one another civilly and to carry out their respective tasks in a constructive and informed manner. Complex social organizations derive their strength from the cooperation of those who participate in them. By virtue of their special role in preparing future generations of leaders, educational institutions have a particular concern with conduct that subjects members of the institutional community to harassment, as herein defined, on the basis of sex, race or any other grounds. Such conduct destroys the bonds of cooperation and common purpose on which society rests by demeaning some members of the community, and, it cannot be tolerated in an institution whose very purpose is to shape the skills and conscience of the rising generations. For this reason, the Board strictly proscribes harassing conduct, and those members of the institutional community who have indulged in it shall be subject to discipline pursuant to Board Policy 1:18.
2. Harassment on any grounds, directed against individuals, is proscribed.
 - A. Sexual harassment in either of its recognized forms is proscribed:
 - 1) Sexual harassment may be established by showing that an individual has been subjected to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature where:
 - a. Submission to such conduct is made either explicitly or implicitly a term or a condition of an individual's participation or use of an institutionally sponsored or approved activity, employment or resource; or
 - b. Submission to or rejection of such conduct by an individual is used as the basis for educational, employment or similar decisions affecting an individual's ability to participate in or use an institutionally sponsored or approved activity, employment or resource.

- 2) Sexual harassment may also be established by showing participation in the creation of an intimidating, hostile or demeaning environment established under § 2(B) below.
- B. Harassment on the basis of race, color, creed, religion, national origin, ancestry, citizenship, gender, sexual orientation, age or disability or harassment on any grounds, directed against individuals, may be established by showing
- 1) Conduct toward another person that has the purpose or the effect of creating an objectively and subjectively intimidating, hostile or demeaning environment that substantially interferes with his or her ability to participate in or to realize the intended benefits of an institutional activity, employment or resource.
 - a. Harassment consists, in most cases, of more than casual or isolated incidents.
 - b. Consideration should be given to the context, nature, scope, frequency, duration and location of the incidents, whether they are physically threatening or humiliating as opposed to merely offensive utterances, as well as to the identity, number and relationships of the persons involved.
 - c. Harassment shall be found where, in aggregate, the incidents are sufficiently pervasive or persistent or severe that a reasonable person with the same characteristics of the victim of the harassing conduct would be adversely affected to a degree that interferes with his or her ability to participate in or to realize the intended benefits of an institutional activity, employment or resource.
 - i. The reasonable person standard includes consideration of the perspective of persons of the alleged victim's race, gender or other circumstances that relate to the purpose for which he or she has become the object of allegedly harassing conduct.
 - ii. If the victim does not subjectively perceive the environment to be hostile, the conduct has not actually altered the conditions of participation and there will be no violation of this policy.
 - (a) It is not necessary to show psychological harm to the victim to establish that the conduct would interfere with the person's ability to participate in or to realize the intended benefits of an institutional activity, employment or resource.

- 2) Other conduct that is extreme and outrageous exceeding all bounds usually tolerated by polite society and that has the purpose or the substantial likelihood of interfering with another person's ability to participate in or to realize the intended benefits of an institutional activity, employment or resource.
3. The chief executive officer of each institution is responsible for the enforcement of this policy and may delegate the necessary authority to the appropriate campus administrator.
 - A. Enforcement policies shall provide, at the minimum, for the following:
 - 1) Posting of notices to alert students, employees and others of the institution's policies concerning harassment;
 - 2) Posting of notices informing students, employees and others of the steps that they must take in order to communicate complaints or concerns to the institution pursuant to Board policy 1:18, including a clear and accurate identification of the person currently serving as the institution's Title IX/EEO coordinator; and
 - 3) Sponsoring educational programs for members of the campus community to assure that they are informed of their rights and obligations under this policy and to assist them in understanding the various forms that harassment may take, the effects it has on its victims and the ways in which it interferes with the proper operation of social organizations and society at large.

SOURCE: BOR, April 1987; BOR, January 1995; BOR, August 2009.