

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Faculty Code of Professional Conduct

NUMBER: 4:14

1. Code of Conduct - Discipline - Just Cause

A. Preamble

The credibility and effectiveness of higher education faculty institutions are derived from the high standards of conduct and integrity demonstrated by those who generate, refine, and transmit knowledge. To protect and maintain the status of the profession, criteria and procedures for just cause actions are needed to provide for the rare occasions when established standards of conduct are violated. Just cause requires quick and efficient action when the standards and reputation of institutions and their faculties are jeopardized; it also requires meticulous due process to protect the rights of individuals and to guard against arbitrary and heedless actions. The burden of proof for any just cause action rests with the administration; any action is subject to the due process requirements specified in section 4:7 of this policy manual.

B. Alternative Measures

With full recognition for the foregoing, the Board may discipline any faculty member for failure to comport his conduct to the Code of Professional Conduct set forth in section 2 of this policy. Taking into consideration the nature of the conduct, past service, scholarly achievements and other mitigating circumstances, any departure from or failure to abide with the Code of Professional Conduct, as herein referenced, may result in any of the following alternative actions:

1. Warnings;
2. Warnings to be filed with the personnel file of the faculty person;
3. Required counseling or treatment at the cost of the faculty person; provided that where an employee has been convicted of a criminal drug statute violation that occurred in the workplace, the counseling or treatment shall be mandated if the individual's employment is to be continued;
4. Temporary suspension from duties with, or without, loss of pay commensurate therewith;

5. Reassignment;
6. Demotion;
7. Discharge.

C. Procedures

Except in the case of all warnings, under subparagraph B(1) above, if the administration has determined that probable cause for discipline exists, the faculty member will be furnished written notice of the allegation supporting the determination and the administration's intended disciplinary action. The matter will be discussed with the faculty member with a personal conference which will be held at a time not sooner than ten (10) working days, nor later than fifteen (15) working days from the date of the transmission of the written notice, unless otherwise agreed by the faculty member and the administration. The faculty member may bring to this meeting a representative chosen by the faculty member. The administration, however, will not proceed with formal action discipline until the faculty member has, through delay or other clear expression, indicated the intention to waive the right to grievance procedure (BOR Policy 4:7 – Grievance – Faculty), or until the provisions of that article have been exhausted; whereupon formal discipline will be effective upon receipt of written notice by the faculty member. Any grievance appeal under this section will begin at Step 2. The grievance conference required at Step 2 must be held by the President or Superintendent, or in the absence of the President or Superintendent, the acting president or superintendent, and will not be designated to any other person.

Under subparagraphs B(4) through B(7), inclusive, the ultimate discipline to be meted out shall not be effective until approved and acted upon by the Board.

The foregoing notwithstanding, the administration may suspend the faculty member, with pay, pending the final action by the Board to discharge, if the character of the charges and the nature of the conduct warrant such action.

In all cases, the burden to prove the charges will rest with the administration.

2. Code of Professional Conduct

With full recognition that there exists traditionally recognized and accepted standards of conduct for faculty within the Regental System, the following rules of conduct, though not all inclusive, shall be deemed to be within such recognized standards:

- A. For other than tenured faculty, a failure to correct deficiencies in performance in compliance with a constructive plan developed under the BOR/COHE collective bargaining agreement, or as otherwise prescribed for non-unit personnel.

- B. For tenured faculty, a failure to correct significant deficiencies in a single constructive plan that has been imposed within five (5) years of a prior constructive plan and where there were significantly similar deficiencies noted or addressed; or a contumacious and willful refusal to abide by a single constructive plan within the time therein prescribed.
- C. A substantial breach of recognized published standards of professional ethics.
- D. Conviction of any felony or the conviction of a misdemeanor involving moral turpitude.
- E. Unauthorized absence from duties without prior notification or justifiable cause or excuse for the absence.
- F. The unlawful or unauthorized manufacture, distribution, dispensing, possession or use of alcohol or controlled substances while on duty or while on premises owned and controlled by the board of regents or used by the board of regents for educational, research, service or other official functions.
- G. The wrongful refusal or failure to follow or comply with lawful orders or instruction of a superior, unless such instruction or order is in contravention of applicable provisions of a collectively bargained agreement, statute or regulation.
- H. The use of alcohol, marijuana, or other controlled substances, which significantly impairs performance of duties.
- I. Theft of state owned or controlled property.
- J. Engagement or participation in strike activities proscribed by SDCL Chapter 3-18.
- K. Sexual harassment of students or employees, for which the Board of Regents may be vicariously responsible under law.
- L. Intentionally and wrongfully counseling, inciting, or participating in validly proscribed student or faculty conduct activity.
- M. Any substantial or irremedial impairment of the ability of a faculty unit member to perform assigned duties.

SOURCE: 1991 Policy Manual 5:4:2 and 5:4:3