

Office/Contact: Office of Human Resources

Source: SDBOR Policy 1:17 and 1:18

Link: <https://www.sdbor.edu/policy/documents/1-17.pdf>; <https://www.sdbor.edu/policy/documents/1-18.pdf>

SOUTH DAKOTA STATE UNIVERSITY
Policy and Procedure Manual

SUBJECT: Harassment including Sexual Harassment

NUMBER: 4:4

1. Purpose

By virtue in its special role in preparing future generations of leaders, the University has a particular concern with conduct that subjects its members to harassment, as herein defined, and such conduct will not be tolerated at the University. This policy and its procedures set forth the types of harassment prohibited and the appropriate steps to follow when students, employees, or others have been subjected to harassment at the University.

2. Definitions

- a. Sexual Harassment may be established by showing conduct which subjects an individual to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature where:
 - i. Submission to such conduct is made either explicitly or implicitly a term or a condition of an individual's participation in, or use of, a University sponsored or approved activity, employment, or resource; or
 - ii. 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 a University sponsored or approved activity, employment, or resource. Sexual harassment also includes the creation of an intimidating, hostile, or demeaning environment established under section 2b below.
- b. Harassment on the basis of sex, race, color, creed, religion, national origin, ancestry, citizenship, gender, gender identity, transgender, sexual orientation, age, disability, genetic information, veteran status, or harassment on any other status that may become protected under law against discrimination or on any grounds, directed against individuals, may be established by showing:
 - i. Conduct toward another person that is severe or pervasive enough to create an objectively and subjectively intimidating, hostile, or demeaning environment that substantially interferes with the individual's ability to participate in or realize the intended benefits of a University activity, employment, or resource.

- ii. In most cases, harassment consists of more than casual or isolated incidents. 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.
 - 1. Harassment will 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 a University activity, employment, or resource.
 - 2. 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.
 - 3. 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.
 - 4. 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 realize the intended benefits of a University activity, employment, or resource.

3. Policy

- a. Harassment on any grounds, directed against individuals, is prohibited at the University
- b. Reasonable directions and admonitions by duly authorized University agents as to time, place and manner in which employees or volunteers perform assigned responsibilities, students carry out educational assignments, or program participants engage in sponsored activities do not constitute prima facie evidence of harassment.
- c. The University President is responsible for the enforcement of this policy and may delegate the necessary authority to the Title IX/EO Coordinator and other officials. The Title IX/EO Coordinator may delegate authority to designated Deputies who have been designated and approved by the University President, in accordance with any limitations in that approval.
- d. Title IX/EO Coordinator contact information shall be maintained and made available in, and disseminated to the University community and general public by, the University Title IX/EO Coordinator Office located in the University Office of Human Resources, or successor unit.
- e. The Title IX/EO Coordinator, and designated Deputies, is responsible for handling complaints and initiating investigations regarding harassment at the University in

conjunction with federal and state law and SDBOR and University policies.

- f. The Title IX/EO Coordinator, not Deputies, on behalf of the University, will identify and coordinate educational and training programs for all members of the University community to assure that they are informed of their rights and obligations under this policy. The requirements and method of training will be dependent on an individual's role in the University community. The Title IX/EO Coordinator is responsible for developing and following a training protocol to meet the necessary requirements.
- g. The Title IX/EO Coordinator, not Deputies, is responsible for posting notices to alert students, employees, and others of the University's policy concerning harassment, including a clear and accurate identification of the person currently serving as the Title IX/EO Coordinator at the University. The Title IX/EO Coordinator, not Deputies, is responsible for posting notices informing students, employees, and others of the steps that must be taken in order to communicate complaints or concerns to the University pursuant to SDBOR Policy 1:18 and University Policy 4:6.
- h. Employees, students, and other members of the University community who participate in conduct which constitutes harassment as defined in this policy will be subject to discipline in accordance with SDBOR and University policies. Students will also be subject to sanctions as set forth in University Policy 3:1, Student Conduct Code.

4. Procedures

- a. In addition to the procedures set forth in University Policy 4:6, individuals who have been subjected to unwelcome conduct of a sexual nature, whether or not rising to a level that constitutes harassment as defined in this policy, should contact the Title IX/EO Coordinator.
 - i. Upon receipt of such a report, the Title IX/EO Coordinator will meet with the individual to discuss the incident, to reiterate the University's commitment to preventing harassment and the protections afforded under SDBOR and University policies, and to assess whether the conduct that prompted the report might involve prohibited harassment.
 - ii. If the Title IX/EO Coordinator concludes that the reported conduct may involve prohibited harassment, the coordinator will initiate the appropriate proceedings, as set forth in University Policy 4:6.
 - iii. If the Title IX/EO Coordinator concludes that the conduct, though unwelcome, did not involve prohibited sexual harassment, the Coordinator will inform the individual of the resources that the University may be able to provide to assist the individual to resolve concerns with the person whose conduct prompted the report, or otherwise assist the individual to become familiar with strategies that may assist in avoiding or responding to such conduct.
 - 1. If the reported conduct, while not yet harassment, was targeted at a specific person or persons, was abusive, and served no bona fide academic purpose, the Title IX/EO Coordinator will contact the person whose conduct prompted the report to discuss the conduct and its relation to federal and state law and to SDBOR and University policies.

- a. Before initiating the contact, the Title IX/EO Coordinator will inform the person who made the report that the contact will be made and explain the University will stress the prohibition against retaliation and will avoid making an express disclosure of confidential information.
2. If the reported conduct was not targeted at a specific person or persons, the Title IX/EO Coordinator will discuss with the individual who made the report options to contact the person whose conduct prompted the report to discuss the implications of the conduct. The Title IX/EO Coordinator will also contact the University official responsible for the person whose conduct prompted the report.
 - a. The Title IX/EO Coordinator will determine whether circumstances require the University to contact the individual whose conduct prompted the report or whether other action may be necessary to assure that the individual understands the obligation to avoid harassment and how certain forms of conduct may interfere with the ability of others to participate fully in University employments and programs.

5. Responsible Administrator

The Title IX/EO Coordinator, successor, or designee is responsible for annual and ad hoc review of this policy and its procedures. The University President is responsible for approval of modifications to this policy and its procedures.

SOURCE: Approved by President on 08/01/2014. Revised (clerical edits only) on 11/16/2018. Revised; Approved by President on 02/06/2019.