

**OFFICE OF RECORD:** Human Resources  
**INITIATED BY:** Director of Human Resources  
**APPROVED BY:**   
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## **ANTI-HARASSMENT POLICY**

### **POLICY**

It is the policy of South Dakota School of Mines and Technology that harassment will not be tolerated. It distracts the harasser, the victim and others from the tasks of the workplace and academic environment; it undermines morale and the psychological well-being of the victim; and it leads to expensive litigation and to possible liability. The university has zero-tolerance for harassment, whether it occurs on or off campus, during or after normal business hours, at work-related social functions, or during business-related travel. Any employee or student violating this policy will be subject to disciplinary action including termination or dismissal.

### **PROCEDURES**

- I. Harassment on any grounds, directed against individuals, is prohibited.
  - A. Sexual Harassment
    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, which may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, whistling or unwanted touching; insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; and other physical, verbal or visual conduct of a sexual nature.
- B. Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, national origin, ancestry, citizenship, gender, sexual orientation, age, marital status, or disability or harassment on any grounds, directed against individuals, may be established by proving:
1. Conduct toward another person that has the purpose or effect of creating an intimidating, hostile or demeaning environment and that 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 harassing conduct that is more than casual or isolated incidents including, but not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group and that is placed on walls or elsewhere on the university's premises or circulated on the campus.
    - 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 persons' 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.

## II. Complaint Procedures

- A. Any employee who feels that he or she has been subject to harassment should report the incident immediately to his or her immediate supervisor or to the Affirmative Action Officer located within the Office of Human Resources. If the immediate supervisor is involved in the harassment, the violation can be reported to the supervisor's immediate supervisor.
- B. Students may report such incidents to their faculty advisor, the Associate Dean of Students, or directly to the Affirmative Action Officer located within the Office of Human Resources or the Dean of Students.

- C. Reports may be verbal, but written statements may later be taken. A full investigation of complaints or problems will be initiated immediately either informally or formally, at the option of the person who feels he or she has been harassed, in accordance with the Board of Regents Human Rights Complaint Procedures, Policy 1:18. Reports may also be filed with the Division of Human Rights, Pierre, SD and the Regional Equal Employment Opportunity Commission (EEOC) Office, Denver, CO.

### III. Training and Education Programs

- A. It is essential to sensitize the university's employees and students to harassment issues. The university's training and education program must be ongoing. All incoming employees and students must be:
  - 1. Educated about what type of conduct constitutes sexual harassment, emphasizing that it is illegal and will not be tolerated.
  - 2. Familiarized with the university's antiharassment policy and their obligations under the policy, including how to file a complaint or report harassment.
  - 3. Encouraged to come forward without fear of retaliation or reprisal if a victim of harassment.
- B. Formal training sessions are not enough. It is essential that employees and students be reminded about this issue, through refresher mini-training sessions, redistribution of the harassment policy, and written reminders about the policy.