

**Spearfish School District 40-2
4000 Personnel**

Board Policy

Code: 4101/5130

Page: 1 of 6

Anti-Harassment Policy

The Spearfish School District is committed to providing a learning and working environment free of unlawful harassment based on an individual's race, color, religion, creed, ancestry, gender, sexual orientation, national origin, disability, age, or other basis prohibited by law.

It shall be a violation of this policy for any student or any school personnel of the School District to harass a student, any school personnel, or any visitor through conduct or communication of a sexual nature or communication disparaging a person's race, color, religion, creed, ancestry, national origin, gender, sexual orientation, disability, or age. For the purpose of this policy, "school personnel" includes School Board members, all school employees and agents, volunteers, contractors, or persons subject to the supervision and control of the School District. This policy applies on all School District property and to all School District sponsored, approved, or related activities at any location.

The School District will act to investigate all complaints of harassment and will discipline or take appropriate action against any student or other school personnel who is found to have violated this policy.

At the beginning of every school year building principals shall review this policy and its regulation with the school personnel and students in his/her building in a manner deemed appropriate for the age of the students within the building.

Legal References:

Title VII of the Civil Rights Act of 1964

Title IX of the Education Amendments of 1972

South Dakota Executive Order 81-08

Harassment

A. Definitions

1. **Harassment:** Harassment consists of physical or verbal conduct related to a person's race, color, religion, creed, ancestry, national origin, gender, sexual orientation, age, disability, or other basis prohibited by law, when the conduct is so severe, pervasive, and objectively offensive that it:
 - a. has the purpose of effecting or creating an intimidating, hostile, or offensive working or educational environment, or
 - b. has the purpose or effect of substantially or unreasonably interfering with a student's educational performance which deprives the student access to educational opportunities.
2. **Sexual Harassment:** Sexual harassment is any unwelcome sexual advance(s), request(s) for sexual favors, and/or other verbal, physical and/or visual contact(s) of a sexual nature, or communication of a sexual nature when:
 - a. submission to such conduct or communication is made, either explicitly or implicitly, a term or condition of an individual's employment or education;
 - b. submission to or rejection of such conduct or communication by an individual is used as the basis for educational or employment decisions affecting the individual; or
 - c. submission to or rejection of the conduct or communication by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the school; or
 - d. such conduct is so severe, pervasive, and objectively offensive that such conduct or communication has the purpose or effect of interfering with an individual's educational or professional performance or creating an intimidating, hostile, or offensive employment or educational environment.

Sexual harassment may include, but is not limited to, the following conduct when such conduct is severe, pervasive, and objectively offensive:

- a. unwelcome verbal harassment or abuse based upon gender;
- b. unwelcome pressure for sexual activity;

Spearfish School District 40-2
4000 Personnel

Board Policy

Code: 4101/5130

Page: 3 of 6

- c. unwelcome, gender motivated, or inappropriate patting, pinching, or physical contact, other than necessary restraint of pupils by teachers, administrators, or other school personnel to avoid physical harm to persons or property;
- d. unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's educational or employment status; or
- e. unwelcome behavior or words, based upon gender, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's educational or employment status.

B. Reporting Incidents of Harassment

Any student or school personnel who believes he or she has been the victim of harassment as defined above by a student or by school personnel of the School District shall report the alleged acts immediately to the building principal or the Title IX Officer. The report shall be on a form available from the principal of each building or the Title IX Officer.

1. **Designated Personnel.** The building principal is the person designated by the School District for receiving written reports of harassment at each school building. Upon receipt of a written report of harassment, the principal shall immediately notify and forward the written report form to the Title IX Officer. Failure to forward any harassment report or complaint as provided herein will result in disciplinary action. If the complaint involves the building principal, the complaint shall be filed directly with the Title IX Officer.
2. **District wide.** The School Board hereby designates the Superintendent as the School District's Title IX Officer to receive reports or complaints of harassment from any individual, employee, or victim of harassment and also from the building principal as outlined above. If the complaint involves the Title IX Officer, the complaint shall be filed directly with the School Board. The School District shall post on student and school personnel bulletin boards and the web site the name of the Title IX Officer including a mailing address and telephone number.
3. **Submission of a complaint or report of harassment.** Submission of a complaint or report of harassment will not affect the student's educational or work assignment of the school personnel's employment.

Spearfish School District 40-2
4000 Personnel

Board Policy

Code: 4101/5130

Page: 4 of 6

4. **Confidentiality.** The School District will make attempts to respect the confidentiality of the complainant and the individual(s) against whom the complaint is filed as much as possible consistent with the School District's legal obligations and the necessity to investigate allegations of harassment and take disciplinary action when the conduct has occurred.
5. **Procedure.** The complainant will be asked to put the facts surrounding the conduct in writing on a form provided by the School District that includes the following: Complainant's name and address; date of the incident; type of harassment; description of the incident; name of any witnesses; what action, if any, has been taken; and signature of the complainant.
6. **Required Reporting.** If the accusations include possible criminal activity such as molestation, sexual battery, or similar contact, the Title IX Officer shall comply with all mandatory state reporting requirements including, but not limited to, contact with the State Department of Social Services.

C. Investigation

Upon receipt of a written report alleging harassment, the Title IX Officer shall immediately authorize an investigation. This investigation may be conducted by School District officials or by a third party designated by the School District. The investigating party shall provide a written report of the status of the investigation within ten (10) working days to the Superintendent/Title IX Officer.

In determining whether alleged conduct constitutes harassment, the School District should consider the surrounding circumstances, the nature of the advances, relationships between the parties involved, and the context in which the alleged incidents occurred.

The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigating party.

In addition, the School District may take immediate steps, at its discretion, to protect the complainant, students, and school personnel pending completion of an investigation of alleged harassment.

During the investigation all parties directly involved in the complaint may have legal or other representation. If any party elects to be represented at any step of the complaint procedure, the name of the representative must be declared in writing to the Title IX Officer.

D. School District Action

1. Upon receipt of the recommendation that the allegations of the complaint constitute a violation of School District policy, the School District will take such action as appropriate based upon the results of the investigation.
2. The results of the investigation of each complaint will be reported in writing and kept on file with the Title IX Officer. The report shall include findings of fact and will document the disciplinary action taken, if any, as a result of the complaint.
3. The complainant will be advised of the District decision in writing on a form supplied by the School District.
4. If either party is not satisfied with the written decision rendered by the School District he or she may appeal the decision in writing to the School Board within ten (10) working days following receipt of the decision. The appeal must include a written statement as to the reason for appeal.
5. The School Board will review the material submitted, investigate the circumstances, and respond in writing within fourteen (14) working days of the appeal with a determination to uphold, modify, or reverse the District decision. At the School Board's discretion, an additional investigation may be conducted, including interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The appeal may also include any other methods or documents deemed pertinent by the School Board.
6. The School Board will render a decision in writing within fourteen (14) working days of the hearing.

E. Prohibition against Retaliation

The School District strictly prohibits and will discipline any individual who retaliates against any person who reports alleged harassment or who retaliates against any person who testifies, assists, or participates in any investigation, proceeding, or hearing related to a harassment complaint.

During the investigation all parties directly involved in the complaint may have legal or other representation. If any party elects to be represented at any step of the complaint procedure, the name of the representative must be declared in writing to the Title IX Officer.

**Spearfish School District 40-2
4000 Personnel**

Board Policy

Code: 4101/5130

Page: 6 of 6

Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Retaliation is itself a violation of federal and state laws prohibiting discrimination and may lead to separate disciplinary action against an individual.

If any student or school personnel who has filed a complaint or has testified, assisted or participated in the investigation of harassment believes that he or she has been retaliated against because of his or her participation, he or she should follow the procedures set forth above.

F. False Charges

Charges found to have been intentionally dishonest or made maliciously without regard for truth may subject complainants to disciplinary action.

G. Uncomfortable Situations

The School District recognizes that not every uncomfortable situation constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory employment or educational effect requires a determination based on all the facts and surrounding circumstances. False accusations can have a serious detrimental effect on innocent parties.

H. Discipline

Any School District action taken pursuant to this policy will be consistent with requirements of applicable School District policies. The School District will take such disciplinary action it deems necessary and appropriate, including but not limited to, warning, suspension, or immediate discharge to end harassment and prevent its recurrence.

Approved	<u>May 27, 1997</u>
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Revised	<u>December 11, 2006</u>
Revised	<u>February 12, 2007</u>
Reviewed	<u>April, 2008</u>
Reviewed	<u>January 9, 2012</u>

HARASSMENT GRIEVANCE FORM
(To be used by designated contact person)

Name of Complainant _____

Address of Complainant _____

Date of Complaint _____

Date and Place of Incident(s) _____

Type of Harassment _____

Description of the Incident(s) _____

Witnesses _____

What action, if any, has been taken _____

Other Comments or Information _____

I agree that all the information on this form is accurate and true to the best of my knowledge.

Signature (optional) _____ Date _____

**Verification of Required Inservice of
Discrimination/Harassment Policy and Procedures
for School District Personnel**

(Including new employees, volunteers and substitutes)

I have read and received inservice on the Anti-Harassment Policy and Procedures of the Spearfish School District.

Signature

Position/School

Date

Please check correct status below:

_____ Currently Employed

_____ New Employee

_____ Substitute

_____ Volunteer

_____ Other