

SEXUAL HARASSMENT POLICY

The Spearfish School District (“District”) does not discriminate on the basis of sex in any education program or activity that it operates, including admission and employment. The District is required by Title IX of the Education Amendments of 1972 and the regulations promulgated through the U.S. Department of Education not to discriminate in such a manner. Inquiries about the application of Title IX to the District may be referred to the District’s Title IX Coordinator, to the Assistant Secretary for Civil Rights of the Department of Education, or both.

The Board designates the following individual to serve as the District’s Title IX Coordinator:

Sarah Heilman, Title IX Coordinator
525 E. Illinois, Spearfish, SD 57783
605-717-1201
sheilman@spearfish.k12.sd.us

The District will notify applicants for admission and employment, students, parents or legal guardians of students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the District, of the name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator.

Any person may report sex discrimination, including sexual harassment, at any time, including during non-business hours. Such a report may be made in person, by mail, by telephone or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report.

For purposes of this policy and the Title IX grievance process, “sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:

1. A District employee conditioning the provision of an aid, benefit, or service of the District on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District’s education program or activity; or
3. “Sexual assault” as defined in 20 USC 1092(f)(6)(A)(v),
4. “Sexual offenses” as defined in 20 USC 1092(f)(6)(A)(v), including offenses classified as a forcible or nonforcible sex offenses under the uniform crime reporting system of the Federal Bureau of Investigation, such as rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape.
5. “Dating violence” as defined in 34 USC 12291(a)(10),
6. “Domestic violence” as defined in 34 USC 12291(a)(8) or
7. “Stalking” as defined in 34 USC 12291(a)(30).

When the harassment or discrimination on the basis of sex does not meet the definition of sexual harassment, the Title IX Coordinator directs the individual to the applicable sex discrimination process for investigation.

Retaliation Prohibited

The District prohibits intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation proceeding or hearing, if applicable. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes retaliation.

Confidentiality

The District must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any individual who has been alleged to be the victim or perpetrator of conduct that could constitute sexual harassment, and any witness, except as may be permitted by Family Educational Rights and Privacy Act (FERPA) or as required by law, or to carry out the purposes of the Title IX regulations, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

Notice Requirements

The District provides notice to applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees and the union(s) with the name or title, office address, email address and telephone number of the Title IX Coordinator and notice of the District grievance process, including how to report or file a complaint of sex discrimination, how to file a formal complaint of sexual harassment, and how the District will respond. The District also posts the Title IX Coordinator's contact information and Title IX policies and procedures in a prominent location on the District website and in all handbooks made available by the District.

Training Requirements

The District ensures that the Title IX Coordinator, Investigator(s), Decision-Makers, and any person who facilitates an informal resolution process, receives training on the definition of sexual harassment, the scope of the District's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, when applicable, and how to serve impartially including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The District also ensures that Decision-Makers and Investigator(s) receive training on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant as set forth in the formal procedures that follow, and training on any technology to be used at a live hearing, if applicable. Investigators also receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. All

materials used to train individuals who receive training under this section must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment and are made publicly available on the District's website.

Conflict of Interest and Bias

The District ensures that Title IX Coordinators, Investigators, Decision-Makers, and any person who facilitates an informal resolution process do not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

Determination of Responsibility

The individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment is presumed not responsible for the alleged conduct. A determination regarding responsibility will be made by the Decision-Maker at the conclusion of the investigation in accordance with the process outlined in the accompanying sexual harassment procedure and federal regulations. No disciplinary sanctions will be imposed unless and until a final determination of responsibility is reached.

Extent of Policy

This Sexual Harassment Policy is intended to comply with Title IX of the Education Amendments of 1972 and federal regulations related thereto. Therefore, nothing in this policy or the related Sexual Harassment Grievance Process shall be construed to be more demanding or more constraining upon the District than the requirements of those federal statutes and corresponding federal regulations. Any complaint or report received that may constitute sexual harassment under Title IX will be addressed pursuant to District policy and procedures, as well as federal law and regulations.

LEGAL REFS.:

Civil Rights Act, Title VI; 42 USC 2000d et seq.

Civil Rights Act, Title VII; 42 USC 2000e et seq.

Education Amendments of 1972, Title IX; 20 USC 1681 et seq.

Executive Order 11246, as amended by Executive Order 11375

Equal Pay Act; 29 USC 206

34 CFR part 106

District Sexual Harassment Grievance Procedure

District Nondiscrimination on the Basis of Sex Policy

Adopted January 10, 2022
Reviewed January 9, 2023