

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Administrators, Professional and Student Employees (Non-faculty Exempt) Code of Conduct/Misconduct Policy

NUMBER: 4:44

1. Preamble

In order for the Board of Regents to maintain an effective orderly, safe and efficient work environment, this policy governs the Code of Conduct/Misconduct of Non-faculty Exempt (Administrators, Professionals and Students) employees. Most violations, as well as poor or unacceptable work performance, are handled in accordance with the steps outlined. The guidelines below are not meant as an all inclusive list.

2. Alternative Measures

The Board may discipline any employee for failure to perform as provided by the Institution and Board of Regents policy and practices. Taking into consideration the nature of the conduct, past service, achievements and other mitigating circumstances, any departure from or failure to abide with the Code of Professional Conduct/Misconduct, as herein referenced, may result in any of the following alternative actions:

- A. Warnings;
- B. Temporary suspension from duties with, or without, loss of pay commensurate therewith; and
- C. Discharge.

3. Procedures

Except in the case of all warnings, under subparagraph 2(A) above, if the administration has determined that probable cause for discipline exists, the employee 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 employee.

Under subparagraphs 2(B) and 2(C), the ultimate discipline shall be effective on the date specified by the institution subject to review and approval by the Board of Regents.

The foregoing notwithstanding, the administration may suspend the staff 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

4. Code of Professional Conduct/Misconduct Defined

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

- A. The employee has violated any Board of Regents or institutional policy;
- B. The employee violated confidentiality or non-disclosure agreements;
- C. The employee disrupts the efficiency or morale of the department;
- D. The employee is careless or negligent with the money or other property of the state or property belonging to any person receiving services from the state or has stolen or attempted to steal money or property of the state or property belonging to any person receiving services from the state;
- E. The employee has failed to maintain a satisfactory attendance record based on the established working hours or has had unreported or unauthorized absences;
- F. The employee has made a false or misleading statement or intentionally omitted relevant information during the application and selection process;
- G. The employee has intentionally falsified a state record or document;
- H. The employee has violated statutes or standard work rules established for the safe, efficient, or effective operation of the campus;
- I. A failure to correct deficiencies in performance in compliance with a constructive plan.
- J. A substantial breach of recognized published standards of professional ethics for the employee's profession.
- K. Conviction of any felony or the conviction of a misdemeanor involving moral turpitude.
- L. Unauthorized absence from duties without prior notification or justifiable cause or excuse for the absence.
- M. 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.
- N. 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.
- O. The use of alcohol, marijuana, or other controlled substances, which significantly impairs performance of duties.
- P. Theft of state owned or controlled property.
- Q. Harassment of students or employees as defined in BOR Policy 1:17.
- R. Intentionally and wrongfully counseling, inciting, or participating in validly proscribed student or faculty conduct activity.

- S. Any substantial or irremedial impairment of the ability of a staff employee to perform assigned duties.

5. Termination of Faculty Appointment

If an employee holds faculty rank, then procedures as faculty member shall be followed (BOR Policy 4.14) provided that just cause for termination under this policy shall be deemed just cause for termination under the faculty appointment unless Policy 4.14 specifically provides otherwise.

SOURCE: BOR, June 2009