

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Student-Athlete Serious Misconduct

NUMBER: 3:23

A. PURPOSE

To establish the principles and policies of the SD Board of Regents (SDBOR) regarding Student-athlete disclosure of serious misconduct that resulted in discipline through a Title IX, student conduct, or other proceeding, or a criminal conviction for sexual, interpersonal, or other acts of violence, or other felony convictions.

B. DEFINITIONS

1. **Institution(s):** Black Hills State University, Dakota State University, Northern State University, South Dakota School of Mines & Technology, South Dakota State University, and the University of South Dakota.
2. **Student-athlete:** A student-athlete is any current or incoming student at a SDBOR Institution who has been invited to participate, or is currently participating, in an organized and competitive sport through the institution's Intercollegiate Athletics Department.
3. **Serious Misconduct:** Having been held responsible through a Title IX, student conduct, or other proceeding, or a criminal conviction for sexual, interpersonal, or other acts of violence, or other felony convictions of conduct that would constitute a violation of SDBOR policies, including but not limited to those categorized generally under the following:
 - a) **Interpersonal Violence:** Violence that is predominantly caused due to the relationship between the victim and the perpetrator, including dating and domestic violence.
 - b) **Sexual Violence:** A term used to include both forcible and nonforcible sex offenses, ranging from sexual battery to rape.
 - c) **Other Acts of Violence:** Crimes including murder, manslaughter, aggravated assault, or any assault that employs the use of a deadly weapon or causes serious bodily injury.

C. POLICY

1. Institutional Requirements

- 1.1. Institutions will maintain policies or procedures in accordance with and implementing this policy.

- 1.2. Institutional Athletic Department training, education, information, disclosures, and operational protocols will integrate into and be compliant with all SDBOR and Institutional policies and processes related to Serious Misconduct.
- 1.3. Institutional Athletic Department staff and Student-athletes will participate annually in sexual violence prevention, intervention, and response programming and education in conformity with SDBOR and Institutional programs.

2. Annual Disclosures

- 2.1. All incoming, continuing, and transfer Student-athletes must complete the required annual disclosure form. Before a national letter of intent (“NLI”) may be issued, or prior to allowing a Student-Athlete who is not receiving athletic-related financial aid to participate, the Institution’s Intercollegiate Athletics Department must verify that the required disclosure form has been signed, submitted, reviewed, and cleared. Verbal commitments made to Student-athletes must be conditioned on successful completion, review, and verification of the required disclosures.
- 2.2. Failure to make full and accurate disclosure could result in loss of eligibility to participate in athletics programs as determined by the Institution.
- 2.3. Student-athletes who, after Due Diligence Review, are determined have been disciplined through a TIX, student conduct or other proceeding, or a criminal conviction of Serious Misconduct, will not be eligible for Athletic-related financial aid, practice, competition, or other Athletic programming.
- 2.4. Student-athletes with unresolved proceedings related to Serious Misconduct will not be eligible to participate in Athletic participation financial aid, practice, competition, or other Athletic programming if independent inquiry of the Institution validates the Serious Misconduct alleged.
- 2.5. Loss of eligibility or a determination of ineligibility at any Institution will be applicable at other SDBOR Institutions.
- 2.6. Loss of eligibility or a determination of ineligibility pursuant to this policy shall have no bearing on, or otherwise impact, the academic status or standing of a student at any Institution. Any violation of SDBOR or Institutional policies involving the same underlying facts which resulted in loss of eligibility or ineligibility pursuant to this policy will be addressed in accordance with, and pursuant to, the applicable SDBOR or Institutional policies.

3. Due Diligence Review

- 3.1. Institutions will take reasonable steps to confirm, review, and verify whether incoming, continuing, and transfer Student-athletes have been held responsible through a Title IX, student conduct, or other proceeding, or a criminal conviction for Serious Misconduct and whether there are any incomplete or pending proceedings.
- 3.2. The Institution will designate Institutional Intercollegiate Athletics Department personnel to receive Annual Disclosure forms, verify that Student-athletes have met the Annual Disclosure requirements and that all forms are fully completed, and make assurances of compliance with the requirements of this and NCAA policies. Forms

indicating that Serious Misconduct occurred, or that are observed to contain inaccurate disclosures, will be forwarded to the Institution's Title IX Office for further review, with notice to the Student-athlete.

- 3.3. Upon receipt for review and in accordance with applicable privacy laws, the Institution's Title IX Office will gather information from any prior institution(s), relevant court systems, and other sources that may possess information regarding the Serious Misconduct in question. The Student-athlete will be provided an opportunity to respond during verification processes.
- 3.4. SDBOR Institutional Intercollegiate Athletics Departments, Title IX Offices, and other Institutional offices and departments will cooperate with another Institution's request for information in accordance with applicable privacy laws.
- 3.5. Student-athletes will cooperate with Institutional efforts to verify information related to Serious Misconduct, including but not limited to completion of necessary consent forms and releases of information required by another Institution or entity, in order to timely obtain records.
- 3.6. Verification of inaccurate Annual Disclosures, finding of responsibility for, or conviction of, Serious Misconduct, or incomplete proceedings during participation in Athletics programs or verified from an Annual Disclosure in accordance with the requirements of this policy will result in ineligibility for athletic financial aid, participation in practice, competition, or other Institutional Athletics program participation. Student-athletes will be notified of ineligibility status and, if any, their right to appeal.
- 3.7. Determinations of ineligibility for incoming or transfer Student-athletes (i.e., non-current Student-athletes) are not subject to an appeal as a matter of right.
- 3.8. Each Institution will establish an appeal committee to hear appeals of denials of eligibility resulting from review of Annual Disclosure reviews and determinations for current Student-athletes. The determination of the appeal committee is not subject to further appeal as a matter of right.

FORMS / APPENDICES:

[Appendix A](#) (Student-Athlete Annual Disclosure of Serious Misconduct Form)

[Appendix B](#) (Serious Misconduct Disclosure Form)

SOURCE:

BOR March 2022.

Appendix A

Student-athlete Annual Disclosure of Serious Misconduct Form

[Institution] and the National Collegiate Athletic Association (NCAA) are committed to sexual violence prevention. The South Dakota Board of Regents and [Institution] prohibit discrimination, harassment, and interpersonal violence. ([Link to Policies](#))

SDBOR and [Institution] Policies require that all Student-athletes make Annual Disclosures during every year of Intercollegiate Athletic participation. Student-athletes must attest (disclose) having been Disciplined through a Proceeding or criminally convicted regardless of the degree, of conduct as defined by SDBOR policies, including but not limited to those categorized generally under the following:

- Sexual Violence: A term used to include both forcible and nonforcible sex offenses, ranging from sexual battery, sexual assault to rape.
- Interpersonal Violence: Violence that is predominantly caused due to the relationship between the victim and the perpetrator, including dating and domestic violence.
- Other Acts of Violence: Crimes including murder, manslaughter, aggravated assault or any assault that employs the use of a deadly weapon or causes serious bodily injury.

Attestation:

___ I attest that **I HAVE NOT** been found responsible for violating a high school, institution of higher education policy or been subject to discipline through a Title IX or other misconduct proceeding or criminally convicted for sexual violence, interpersonal violence, or any other act of violence as described above and in the associated policies, AND that I did not leave any prior institution or entity with conduct charges PENDING for such acts.

___ I attest that **I HAVE** been found responsible for violating a high school, institution of higher education policy; or been subject to discipline through a Title IX or other misconduct proceeding; or criminally convicted for sexual violence, interpersonal violence, or any other act of violence as described above and in the associated policies, **OR HAVE PENDING** charges through a Title IX or misconduct proceeding.

Was the Title IX or other misconduct proceeding complete or pending at the time of your transfer to [Institution]?

___ Complete ___ Pending Institution/entity Name: _____ Date: _____

___ I have provided the information requested in this matter to another institution of higher education. Institutions:

___ I hereby consent to [Institution], through oversight of the Title IX Office and with assistance of the Athletic Department where applicable, to contact the above institution or entity to gather additional information regarding this disclosure for the purpose of evaluating consideration of this information in participation in Athletic programs at Institution. I hereby authorize the institution or entity to release all records related to the complete or pending actions to [Institution's] representatives.

By signing below, I attest that, to the best of my knowledge and belief, all information disclosed and attested to on this form is accurate and complete, I agree to execute any needed releases to facilitate disclosure of relevant information to Institution, and that providing purposefully false information on this form could result in penalties by the [Institution] and the NCAA, including jeopardizing my participation, eligibility, and/or scholarship/financial aid receipt.

Student Name: _____ Signature: _____ Date: _____

ID#: _____ Athletic Status (circle): First-Year Transfer Returning Sport/s: _____

Appendix B

Serious Misconduct Disclosure Form

- | | | |
|---|-----|----|
| 1. Do you have any criminal or juvenile charges pending against you? | YES | NO |
| 2. Have you been convicted of, pled guilty to, or pled no contest to any crime involving: | | |
| a. Sexual Violence? | YES | NO |
| b. Rape? | YES | NO |
| c. Sexual Assault? | YES | NO |
| d. Domestic Violence? | YES | NO |
| e. Dating Violence? | YES | NO |
| f. Stalking? | YES | NO |
| g. Sexual Harassment? | YES | NO |
| h. Hate Crimes? | YES | NO |
| i. Assault with a Deadly Weapon? | YES | NO |
| j. Assault That Caused Serious Bodily Injury? | YES | NO |
| k. Any Other Felony Crime? | YES | NO |

If you answered "YES" to Question 1 or any portion of Question 2, please provide a detailed explanation of each such matter, including but not limited to, the court or educational institution in which matter is pending or was adjudicated, the case number, and date of the filing or disposition.

3. Have you been disciplined, suspended, or placed on probation for any reason (excluding limited discipline applied by a sports team or temporary disciplinary action during an investigation) at any collegiate institution? YES NO

If yes, please provide a detailed explanation:

4. At the time you ceased enrollment at a previous collegiate institution, were you the subject of a pending proceeding of any kind that could have resulted in disciplinary action, suspension, expulsion or prohibition? YES NO

If yes, please provide a detailed explanation.

5. Have you ever provided the information requested in this matter to any other collegiate institution? YES NO

If yes, please list those institutions.

By signing below, you (1) certify that the statements and information contained in this document is true, accurate, and complete and (2) agree to sign any necessary releases with previous institutions and other entities in order for the [Institution's] Title IX Office to inquire further about the answers above.

Student Name

Student ID Number

Student Signature

Date