

PROHIBITION AGAINST AIDING OR ABETTING SEXUAL ABUSE

Employees, contractors, and agents of the Beresford School District are prohibited from assisting another school employee, contractor or agent in obtaining a new job if the District or the employee, contractor or agent of the District has knowledge of, or probable cause to believe, that the employee engaged in sexual misconduct with a minor or a student in violation of the law.

"Assisting" includes but is not limited to giving a positive recommendation to a potential employer, but does not include the routine transmission of administrative and personnel files or information related to name of employee, contractor or agent, dates of employment/contract, and position held or work performed.

"Probable Cause" exists where the facts and circumstances within the [person's] knowledge, and of which they have reasonably trustworthy information, are sufficient in themselves to warrant a belief by a man of reasonable caution that [an offense] has been or is being committed.¹

"Sexual Misconduct" is the umbrella term federal regulators use to categorize behavior that includes sexual assault, unwanted sexual contact, and sexual harassment.²

The requirements of this prohibition do not apply if the information giving rise to probable cause has been properly reported to a law enforcement agency, or any other authorities as required by local, state or federal law or regulations, AND at least one of the following conditions applies:

1. The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee, contractor or agent engaged in sexual misconduct regarding a minor or student in violation of the law; or
2. The school employee, contractor or agent has been charged with, and acquitted or otherwise exonerated of the alleged misconduct; or

3. The case or investigation remains open and there have been no charges filed against or indictment of the school employee, contract or agent within four (4) years of the date on which the information was reported to a law enforcement agency.

¹ State v. Stuck, 434 N.W.2d 43 (SD 1988)

² Rice University Student Judicial Programs, Sexual Misconduct Policy

[July 2019] {January 2023}