

# DE SOTO AREA SCHOOL DISTRICT

512

## HARASSMENT OF EMPLOYEES

The De Soto Area School District is committed to providing a workplace free of harassment. Our employees are entitled to work in an environment where the conduct of others does not unreasonably interfere with work performance. The authority for the Board of Education to regulate such conduct includes Title VI of the Civil Rights Act of 1964, Wisconsin Fair Employment Statutes, United States Supreme Court decisions, and Equal Employment Opportunity Commission regulations and guidelines. For purposes of this policy, harassment refers to conduct that is sufficiently severe or pervasive such that an abusive or hostile working environment exists. Such conduct may be physical, verbal, or written, and includes threats as well as actions.

No employee shall be subject to harassment directed at any of the following categories: sex, sexual orientation, race, national origin, ancestry, color, age, creed, religion, pregnancy, marital or parental status, or physical, mental, emotional or learning disability, arrest or conviction record, membership in the national guard, state defense force, or any other reserve component of the military forces of Wisconsin or the United States, use or nonuse of lawful products off the employer's premises during nonworking hours, or any other reason prohibited by state or federal law.

Administration is charged with creating and maintaining a workplace free of harassment. Administrative rules appended to this policy will further define harassment and sexual harassment, encourage the filing of complaints, protect confidentiality, discourage retaliation, provide a clearly understood complaint process, establish sanctions for violations of this policy, and provide for the education of all staff regarding this policy.

The Board further recognizes that state law grants authority to administration to suspend and the Board to expel any student who endangers the property, safety or health of an employee regardless of whether the endangering activity takes place at school.

### LEGAL REFERENCE: WISCONSIN STATUTES

111.31 et. seq. (Wisconsin Fair Employment Act)

118.13

120.13(1)(b)

### FEDERAL STATUTES

Title VI of the Civil Rights Act of 1964

Americans with Disabilities Act

Age Discrimination in Employment Act

### CROSS REFERENCE:

512-Rule, Harassment of Employees

411-Rule, Student Discrimination Complaint Procedures

531-Rule, Professional Staff Work Rules

541-Rule, Support Staff Work Rules

### ADOPTED:

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# DESOTO AREA SCHOOL DISTRICT

512-Rule

## HARASSMENT OF EMPLOYEES GUIDELINES

This rule provides all staff with administration's process for enforcing the laws regarding workplace harassment and for creating the workplace environment mandated in Board Policy 512.

### DEFINITIONS

#### SEXUAL HARASSMENT

Sexual harassment is a form of sex discrimination. A discriminatorily abusive environment can and often will detract from employees' job performance, discourage employees from remaining on the job, or keep them from advancing in their careers. Conduct that rises to the level of sexual harassment includes the following:

- A. Deliberate verbal or physical conduct of a sexual nature, whether or not repeated, that is sufficiently severe or pervasive to interfere substantially with an employee's work performance or to create an intimidating or offensive work environment. Such conduct includes offensive gestures, leering, unnecessary following, sexual comments about an employee's appearance or body, "dirty jokes," and written or verbal comments about an employee's personal sex life.
- B. Unwelcome sexual advances. Examples of this behavior include patting, pinching, brushing against, hugging, cornering, kissing, fondling, or any other similar, deliberate physical contact that is unwelcome.
- C. Deliberate, repeated display of offensive sexually graphic materials. Such materials include photographs, drawings, posters, cartoons, etc.
- D. Requests or demands for sexual favors tied to an implied or expressed promise of preferential employment treatment or threat of negative employment consequence.

The conduct described above may be considered to be sexual harassment regardless of whether the parties involved are of the same or opposite gender.

#### HARASSMENT

A safe and productive work environment must be free of any form of harassment. Conduct that rises to the level of harassment, in addition to that detailed in the above definition of sexual harassment, includes the following:

- A. Deliberate, repeated making of verbal or written comments that insult, degrade or stereotype an employee or group of employees because of sex, sexual orientation, race, national origin, ancestry, color, age, creed, religion, pregnancy, marital or parental status, or physical, mental, emotional or learning disability, arrest or conviction record, membership in the national guard, state defense force, or any other reserve component of the military forces of

Wisconsin or the United States, use or nonuse of lawful products off the employer's premises during nonworking hours, or any other reason prohibited by state or federal law.

- B. Striking, shoving, kicking, throwing objects at or any form of physical aggression directed at an employee.
- C. Engaging in or threatening to engage in action (verbal, physical or written) that has no legitimate business purpose and which would reasonably cause an employee to fear for his or her physical safety or emotional welfare.
- D. Posting or circulating any written or graphic materials, sound or video recordings, or any electronic or other materials that attack, defame, belittle, or show hostility to an employee or group of employees and that have no legitimate business purpose.

## COMPLAINT PROCESS

### PHILOSOPHY

The complaint investigation and resolution procedure will protect the legitimate interests of both the complaining employee and the party charged with harassment. The process must be conducted in an expedient, fair, thorough and confidential manner.

### PROCEDURE

The following procedure spells out the formal process for complaint resolution. Prior to initiating a formal complaint, an employee may first attempt to informally resolve the situation. This could include directly addressing the matter with the harassing party or requesting a conflict resolution. However, informal resolution is not a requirement of this administrative rule, as the following process may be invoked at any time. Employees who wish to file a complaint are urged to do so as promptly as possible. Any employee who believes that he or she is the victim of harassment should follow the steps set forth below:

- Step 1 The complainant will inform an administrator or the director of human resources of the harassment. The complainant will be provided with a complaint form and statement form (see 512-Exhibit A, "Formal Employee Harassment Complaint" and 512-Exhibit B, "Employee Harassment Complaint Statement Form"), which the complainant will complete. Upon receipt of the forms, the administrator and director of human resources will investigate the complaint by following the district's investigation checklist (see 512-Exhibit C, "Employee Harassment Complaint Checklist").
- Step 2 Within fifteen (15) working days of the receipt of the complaint, but sooner if at all possible, the director of human resources will complete the disposition form and inform all parties of the determination (see 512-Exhibit D, "Disposition of Employee Harassment Complaint").
- Step 3 If any party is not satisfied with the disposition, a written appeal may be submitted to the superintendent. The letter of appeal must be received in the superintendent's office within ten (10) working days after the party was notified of the disposition. The superintendent

shall meet with the party and other necessary individuals at a mutually agreeable time. The superintendent will respond to the appeal within ten (10) working days of the meeting.

Step 4 If any party is not satisfied with the superintendent's response, a written appeal may be filed with the Board of Education as well as forwarding a copy of the appeal to the superintendent's office. The letter of appeal should state why the party is not satisfied with the superintendent's response. The letter of appeal must be received by the Board of Education within ten (10) working days after notification of the superintendent's response. Within twenty (20) working days of the receipt of the appeal, the Board shall meet with the party and the administration. The Board shall determine whether the disposition stands, the disposition is reversed or whether further action on the part of administration needs to take place. The Board's written determination will be presented to the party and others affected within ten (10) working days of the board meeting.

## STATE & FEDERAL CLAIMS

Employees who believe they are victims of harassment may also file claims with state and federal agencies. These agencies include the Wisconsin Equal Rights Division, the Federal Equal Employment Opportunity Commission, or the Federal Office of Civil Rights. There are strict deadlines for filing such claims. The deadlines run from the last date of the harassment, not from the date that the employer resolves the internal complaint.

## CONFIDENTIALITY

The confidentiality of all parties involved in a harassment complaint investigation shall be strictly respected. Only individuals with a need to know or who are necessary to fully understand the facts will be included in the process. The administration recognizes that in some instances anonymity may be requested. However, in order to conduct a thorough investigation, the identification of individuals may be unavoidable.

## RETALIATION

Retaliation against an individual for filing a harassment complaint or for participating in a harassment investigation will not be tolerated and will be grounds for disciplinary action.

## DISCIPLINE

An employee who is determined to have engaged in harassment will be subject to discipline. The level of discipline imposed will depend on the facts of the situation. These facts include the amount of harm inflicted, the severity or pervasiveness of the activity, and the employees' disciplinary record. Discipline may include a reprimand, suspension without pay, or discharge.

A student who has engaged in harassing activity directed at an employee, regardless of whether the activity takes place at school or while attending a school activity, will be subject to discipline. The state legislature has granted to the Board the authority to expel a student for such conduct and the administration the authority to suspend. The level of discipline will depend on the harm inflicted, the severity or pervasiveness of the activity, and the students behavioral record.

## EDUCATION

Awareness of the Board's policy and this administrative rule is essential to the district's efforts to maintaining a working environment that is free of harassment. To that end, the following educational steps will be required:

- A. Upon employment with the district, each new employee will receive a copy of the district's harassment policy and rules. The employee will sign an acknowledgement of receipt of the policy and rule.
- B. The policy and rule will be reviewed annually with all employees in a meeting with their supervising administrator.
- C. Administrators will receive an annual inservice in which the policy, rule, judicial decisions, and legislative changes are reviewed.

APPROVED:

DE SOTO AREA SCHOOL DISTRICT

512-Exhibit A

FORMAL EMPLOYEE HARASSMENT COMPLAINT

This form should be used after discussing the basis of the complaint with an administrator.

Type of Harassment:  Sexual  Other

Name of Employee Being Harassed: \_\_\_\_\_

Site Employee Works: \_\_\_\_\_

Name of Person Filing Complaint: \_\_\_\_\_

Employee  Other

Reason(s) for complaint (state generally):  
(Provide specifics in attached Statement Form)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Relief requested:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

The administrator receiving the complaint shall immediately begin an initial investigation of the complaint and reply in writing to the complainant within fifteen (15) calendar days unless a notice is given of the need for an extension of the investigation.

Copies:  Human Resources Dept.  Complainant

*FOR OFFICE USE ONLY*

\_\_\_\_\_  
*Received by*

\_\_\_\_\_  
*Date*

DE SOTO AREA SCHOOL DISTRICT

512-Exhibit B

EMPLOYEE HARASSMENT COMPLAINT STATEMENT FORM

This form should be used after discussing the basis of the complaint with an administrator.

Name of Person Filing Statement: \_\_\_\_\_

Complainant     Charged Party     Witness     Other

Please state specifically what happened. Include what happened, when it happened (date(s) and time(s)), how often it happened, where it happened, who did it and who witnessed it. Complainant should describe attempts to stop the harassment.

(Use reverse side and attach additional information if necessary.)

MY SIGNATURE BELOW CERTIFIES the information provided in this statement and attached information is true and accurate to the best of my knowledge.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

*FOR OFFICE USE ONLY*

\_\_\_\_\_  
*Received by*

\_\_\_\_\_  
*Date*

DE SOTO AREA SCHOOL DISTRICT

512-Exhibit C

EMPLOYEE HARASSMENT COMPLAINT  
INVESTIGATION/DETERMINATION CHECKLIST

*(Note to Investigator: Even if you have not received a formal complaint, we suggest using the policy and this checklist as a guide for your investigation.)*

I. Notice of Harassment

A. If a formal complaint is filed:

- Review appropriate policy with complainant.
- Advise complainant of investigation procedure and timelines (15 working days to complete investigation).
- Notify Human Resources Department

B. Receipt of informal complaint by victim or third party:

- Review harassment policy with complainant.
- Inform complainant of formal complaint process and that regardless of formal complaint, investigation will take place,

II. The Investigator

A. The interview with the complainant/victim.

- Obtain written statement with signature and date.
  - Make sure statement has names of witnesses
  - Make sure statement provides specifics – who, what, where, when, why, how, how often?
- Inform what will happen and timelines.
- Reinforce the need for confidentiality.
- Advise complainant to supplement any additional information.

B. Interviewing witnesses (if necessary).

- Obtain written statement with signature and date.
  - Make sure statement has names of witnesses
  - Make sure statement provides specifics – who, what, where, when, why, how, how often?
- Reinforce the need for confidentiality.
- Advise witness to supplement any additional information.



C. Interviewing charged party.

- \_\_\_ Apprise of right to union representation (if applicable).
- \_\_\_ Inform of charges and review policy.
- \_\_\_ Inform of need to investigate but stress your neutrality.
- \_\_\_ Present each detail of allegation and get admission or denial.
- \_\_\_ For each admission, ask why.
- \_\_\_ For each denial, ask why or what might be complainant's motive.
- \_\_\_ Offer opportunity for a written statement and follow same guidelines used for interviewing complainant.
- \_\_\_ Inform what will happen and timelines.
- \_\_\_ State that retaliation will not be tolerated and will be subject to discipline.
- \_\_\_ If charged party has witnesses, repeat the process for interviewing complainant witnesses.

III. Determination

- \_\_\_ Complete disposition form.
- \_\_\_ Contact parties regarding determination.
- \_\_\_ If there is a violation, take corrective action in consultation with Director of Human Resources. Possibilities include EAP referral, transfer to another position and discipline.
- \_\_\_ Advise parties of the right to appeal the decision and the appropriate timeline (10 working days).
- \_\_\_ Apprise other individuals who have a need to know.

DE SOTO AREA SCHOOL DISTRICT

512-Exhibit D

DISPOSITION OF EMPLOYEE HARASSMENT COMPLAINT

(Attach copy of complaint)

Sexual

Other

NAME OF COMPLAINANT: \_\_\_\_\_

NAME OF CHARGED PARTIES: \_\_\_\_\_

DISPOSITION:

1. Was there a violation of the harassment policy?

Yes

No

2. Provide explanation of basis of decision. (Attach more information if necessary.)

3. Date parties were notified of disposition and appeal procedure.

\_\_\_\_\_  
\_\_\_\_\_  Complainant  
 Charged Party

\_\_\_\_\_  
Administrator

\_\_\_\_\_  
Date

Copies:  Human Resources Dept.

Complainant

*FOR OFFICE USE ONLY*

\_\_\_\_\_  
*Received by*

\_\_\_\_\_  
*Date*

