



DEFOREST AREA SCHOOL DISTRICT

Human Resources Department 520 East Holum Street DeForest, WI 53532 (608) 842-6520

Nondiscrimination and Harassment Policy

The DeForest Area School District is committed to providing fair and equal employment opportunities and to maintain a professional work environment free from all forms of illegal discrimination, including harassment. The District shall not tolerate harassment in any form, and such conduct will result in corrective action, up to and including termination. By policy and law, harassment of students or of staff in the workplace is prohibited.

In the event an employee feels that he or she has been discriminated against by any action prohibited by law, he or she may seek the assistance of the Director of Human Resources. Informal discussions to resolve the problem are encouraged before a formal complaint is made.

An employee making a good faith complaint or reporting harassment will in no way jeopardize the employee's position or status within the District, nor will it affect future employment, compensation, work assignment or status. Upon request, complaints brought to the Human Resources office will be investigated thoroughly. Confidentiality will be maintained as much as possible during the investigation. If a resolution is not reached at this step, the employee may utilize the grievance procedure outlined in the Nondiscrimination Administrative Regulation 3.8(3) found on the District website. Fraudulent complaints may result in disciplinary action. The District has established a policy specifically for Harassment as follows:

Harassment

The District is committed to providing a professional, harassment-free environment for employees, job applicants, students of the District, and to all persons who seek or receive services from the District or its contractors. Harassment infringes upon the rights of all and creates a hostile environment for learning and working. Harassment does not include verbal expressions or written material that are relevant and appropriately related to course subject matter or curriculum.

To ensure that all employees and students work and study in an environment free of all forms of harassment, including sexual harassment, the Board expressly prohibits harassment based on race, color, creed, ancestry, national origin, age, sex, marital status, disability, religion, sexual orientation, gender identity and gender expression, arrest/conviction record, or membership in the military reserve, and will take all the necessary steps to prevent such harassment from occurring. Any employee or student who engages in harassment will be disciplined by the appropriate authorities.

In general, harassment means unwanted, deliberate or repeated unsolicited comments (oral or written), gestures, graphic material, physical contact, verbal/nonverbal or physical conduct directed to an individual because of his/her membership in a protected class constitute harassment when this conduct:

1. Has the purpose / effect of creating an intimidating, hostile or offensive working or educational environment; or
2. Has the purpose / effect of unreasonably or substantially interfering with an individual's work or student's performance in school, including his/her performance in curricular, extracurricular, or nonacademic activities; or
3. Otherwise adversely affects an individual's employment or a student's opportunities in curriculum, extracurricular, and nonacademic activities; or
4. Submission to the conduct is made either explicitly or implicitly, a term or condition of an individual's employment; or a student's opportunity to obtain an education; or
5. Submission to or rejection of the conduct by an individual is used as the basis for employment decisions affecting the individual or as a factor in decisions affecting the student's education; or
6. Is sufficiently severe, persistent or pervasive that it adversely affects (1) a student's ability to participate in or benefit from an educational program or activity or (2) an individual's ability to work.

Examples of harassment may include but not limited to:

1. Unwanted physical contact including touching, pinching and/or brushing the body.
2. Indecent exposure, including lewd (obscene) behaviors.
3. Persistent requests for social/sexual encounters and favors.

4. Making inappropriate statements or jokes about students or staff because of their protected status, (e.g., gender, disability, sexual preference, race, religion, etc.).
5. Basing a personnel decision on someone providing sexual favors, or someone protected status (e.g., ancestry, age, political beliefs, physical appearance, religion, etc).
6. Displaying graphic, sexually explicit objects, posters or pictures that show adolescents, women, racial minorities, people who have disabilities or students in a degrading or humiliating manner.
7. Obscene gestures, nonverbal suggestive behavior (leering) or insulting sounds (whistling).

The District will (1) respond to every formal written complaint of sexual harassment reported, (2) take action to provide remedies when harassment is discovered, (3) impose appropriate sanctions on offenders in a case-by-case manner, and (4) protect the privacy of all those involved in harassment complaints to the extent it is possible.

Reporting Suspected Harassment

Any employee with a harassment concern or question, prior to filing a formal complaint, may contact the Director of Human Resources for counsel and assistance. Any individual employee who believes that he/she may have experienced harassment, or who believes that he/she has observed harassment taking place, must report this information immediately to one (1) of the following reported officials:

1. Director of Human Resources
2. Building Principal
3. The complainant's supervisor, where the supervisor is not the accused.

Reports/complaints in which the accused is neither a District employee nor a student (e.g., vendors, visitors, etc.) shall be processed consistent with any other complaint by notifying one (1) of the three (3) reporting officials above, although the District reserves the right to alter or modify the procedures outlined below, in its sole discretion, in order to effectively handle these complaints.

Investigation of Harassment Complaints

Unless otherwise provided herein, responsibility for the investigation of harassment complaints in which the accused is an employee (teacher, administrator, staff or student employee) shall be with the Director of Human Resources. Responsibility for the processing of harassment complaints in which the accused is a student shall be with the Director of Student Services. The Superintendent or his/her designee has the authority to appoint an alternate investigator as circumstances require and in his/her sole discretion, such as when a substantial conflict of interest is alleged by the complainant, accused or investigator. In the event a request for an alternate investigator is made and/or an alternate investigator must be appointed, the specific time lines provided in the policy shall be suspended pending that appointment.

Complaints will be addressed as confidentially as possible and/or practicable, considering the specific circumstances of the allegations, to protect the rights of both the complainant and the person accused.

The investigator may gather information from any sources deemed necessary in an effort to fully investigate and resolve the complaint. Complaints must be delivered by the complainant to one (1) of the reporting officials referenced above. The formal complaint must be filed as soon as possible after the alleged incident occurred or after attempts to resolve the situation informally have been unsuccessful.

The complaint must be in writing, signed and dated by the complainant, and should include the following information:

1. Details concerning the incident(s) or conduct giving rise to the complaint.
2. Dates and location of incident(s).
3. Any witness to the alleged incident(s) or conduct.
4. Action(s) requested to resolve the complaint and prevent future violations of the policy.

Each alleged offender will be provided with a copy of the complaint by the investigator within three (3) business/work days of the investigator's receipt of said complaint. The investigator will notify the supervisor of the accused person regarding the complaint, in order that the supervisor may take appropriate interim and/or remedial actions during the investigation. (Example: temporary assignment, paid leave of absence, separation of the complainant and accused.)

The alleged offender will be given an opportunity to submit a written response to the complaint within five (5) business/work days of receipt of a complaint, a copy of which will be provided to the complainant by the investigator.

The investigator will interview the complainant and the alleged offender and may also, at his/her discretion, interview witnesses, supervisors, and/or any other persons who may have information about the alleged incident. The investigator may review personnel or other records relevant to the complaint. The complainant and the accused person shall be permitted to suggest witnesses and/or other evidence, which shall be considered by the investigator. A record shall be kept of all individual interviews.

Within thirty (30) business/work days of receiving the formal written complaint, the investigator will assess whether a violation of the policy has occurred and will submit the finding in writing to the complainant, the person accused, his/her immediate supervisor and the Superintendent. The investigator must find by a preponderance of the evidence (that it is more likely than not) that the alleged harassment has occurred in order to hold the accused responsible for such conduct. If harassment was found to have occurred, the Superintendent shall be responsible for acting on the findings of the investigator.

In making a decision regarding discipline, the Superintendent shall consider the previous conduct, the seriousness of the violation and any other information pertinent to this decision. Where a pattern or practice of harassment exists or prior complaints of harassment have been confirmed, the

Superintendent shall consider the totality of information in determining appropriate discipline, and may also take formal disciplinary action. The Superintendent may also review any part of the investigative records. Appropriate discipline may range from an oral reprimand up to and including termination for cause or any other appropriate remedial action.

Within five (5) business/work days of receiving the investigator's findings with regard to whether the information gathered in the investigation resulted in a finding that harassment occurred, the supervisor shall meet with the accused person to discuss the findings and recommendations. This meeting may also include the Superintendent or the Director of Human Resources. Within five (5) business/work days of this meeting, the supervisor shall issue a written notice of the appropriate disciplinary action, if any, after appropriate consultation with the Superintendent and Director of Human Resources, which notice shall be provided to the accused and the investigator. The investigator will, in turn, notify the complainant of the resolution of the complaint, including that the complaint was handled and if any disciplinary action was imposed.

All deadlines indicated above may be altered at the discretion of the investigator and/or supervisor for good cause shown. The complainant will be notified of any alteration in deadlines.

Appeal of Complaint Resolution/Disciplinary Action

Either the complainant or person accused may file an appeal of any decision concerning the resolution of the complaint. An appeal by either party must be made in writing, within ten (10) business/work days of receipt of the notice of resolution/disciplinary decision. This appeal shall go to the Superintendent. The written appeal must state in detail the reason(s) for the appeal, explaining with specificity any alleged factual or procedural errors, any alleged issues concerning interpretation of District policy, any basis on which the disciplinary action is alleged to be improper and any new information or evidence, including an explanation why such information or evidence was not presented during the investigation.

No disciplinary or other action based on the complaint shall be taken against the alleged offender during the appeal process, although temporary, interim measures may remain in place.

The Superintendent shall review the materials gathered and utilized by the investigator and the supervisor(s) in reaching his/her decision with regard to responsibility and disciplinary action. At his/her sole discretion, the Superintendent may interview the accused, the complainant, and/or any additional witnesses. Within ten (10) business/work days of receipt of the appeal, the Superintendent shall issue a written decision and that decision shall be final. All deadlines indicated above may be altered at the discretion of the Superintendent handling the appeal for good cause shown.

Alternative Legal Remedies

Nothing in this policy shall prevent the complainant or the respondent from pursuing formal legal remedies or resolution through state or federal agencies or the courts.

Written Records Related to a Harassment Complaint

Written records of harassment complaints and all other materials relating to such complaints will be marked "CONFIDENTIAL" and will be retained in a separate and secure (locked) file by the Office of Human Resources. Written records relating to a finding that harassment has occurred may be placed in an accused employee's official personnel file. Harassment complaints and the records created in the course of an investigation into harassment are public records and may be disclosed under the public records law.

Dissemination of Policy

The policy will be made available to all employees and students. Periodic notices sent to students, employees, and supervisors about the District's harassment policy will include information about the complaint procedure and will refer individuals to designated offices/officials for additional information. The District reserves the right to modify and/or amend any or all of the procedure(s) outlined herein at any time, in its sole discretion. In the event the District determines that circumstances warrant modification/amendment of any part of these procedures, timely notice of same shall be delivered, in writing, to all relevant and affected parties. The District's non-discrimination officers are:

For student issues:

Director, Student Services
DeForest Area School District
520 East Holum Street
DeForest, WI 53532

For employee issues:

Director, Human Resources
DeForest Area School District
520 East Holum Street
DeForest, WI 53532

ANTI-RETALIATION POLICY

In some investigations, the district must rely on individual employees to report instances where it appears that a staff member is not complying with applicable law or district policy. A major deterrent to such reporting is the fear that the person against whom the report is made will retaliate against the person making the report. The DeForest Area School District prohibits retaliation against those who make bona fide reports of possible non-compliance. Any employee who engages in retaliation may be subject to discipline up to and including termination of employment.

Retaliation to protected activity is a serious offense and is not permitted under any circumstances. Retaliation involves actions that result in intimidation, adverse actions with respect to an employee's work assignment, salary, vacation, or other penalty to an employee in response to:

- Filing or responding to a bona fide complaint of discrimination or harassment.
- Participating in an investigation, preceding or hearing
- Appearing as a witness in the investigation of a complaint.
- Serving as an investigator or a complaint.

Any incidents of retaliation should be promptly reported to the Director of Human Resources or another administrator. The District will take appropriate corrective action, including disciplinary action, up to and including termination of employment, against any individual who engages in retaliation. This policy also prohibits employees from knowingly and intentionally making a report of noncompliance that is false.

Adverse personnel or disciplinary action against an employee whose conduct or performance warrants such action for reasons unrelated to the reporting of a concern will not be deemed a violation of this policy.