

TOWN OF BOXBOROUGH

Discrimination and Harassment Prevention Policy

Section 1. Intent

It is the goal of the Town of Boxborough to promote a professional work environment which is free of all forms of abuse or harassment and in which all of its employees are treated with respect and dignity.

Harassment is a form of behavior, prohibited by state and federal law, which adversely affects the employment relationship. Harassment of individuals, based on gender, sexual orientation, gender identity, race, color, religion, national origin, age, disability, military status, genetics, criminal record (inquiries only) or any other category protected under federal, state or local law, which occurs in the workplace or in other settings in which individuals of the town may find themselves in connection to their employment, is unlawful and shall not be tolerated by the town. The town also condemns and prohibits any form of harassment by any applicant, client, vendor or visitor. Further, any retaliation against an individual who has complained about harassment, or retaliation against individuals for cooperating with an investigation of a harassment complaint, is similarly unlawful and shall also not be tolerated. Any individual found to have engaged in retaliation will be subject to disciplinary action, up to and including discharge.

Because the Town takes all allegations of discrimination and harassment seriously, the Town will respond promptly to complaints of discrimination or harassment. If it is determined that inappropriate conduct has occurred, the Town will act without delay to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate, up to and including discharge.

It is important to note that while this policy sets forth the Town's goals of promoting a workplace that is free of discrimination and harassment, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for workplace conduct which the Town deems unacceptable, regardless of whether that conduct satisfies the definition of discrimination or harassment. It should be noted as well that elected and appointed officials are expected to refrain from all forms of discrimination, abuse and harassment and, as appropriate, the standards of conduct and disciplinary provisions of this policy shall also apply to elected and appointed officials.

Section 2. Discrimination

Anti-discrimination laws prohibit any form of unlawful discrimination, including harassment, based upon membership in a protected class. Protected categories include, race, national origin, age, color, religion, disability, criminal records (inquiries only), military status, genetics, gender, sexual orientation, gender identity and any other category protected by state or federal law. The anti-discrimination laws also prohibit retaliation against an individual who complains of discrimination. Anti-discrimination laws are applicable to all employment activities including:

- Hiring (posting, applications, interviews, examinations and selection)
- Compensation and benefits
- Promotions
- Transfers
- Discipline and layoffs

Forms of discrimination can include, disparate treatment, harassment (sexual and non-sexual harassment), and failure to provide a reasonable accommodation based on disability or religion. In short, the anti-discrimination laws require that the employer conduct all aspects of the employer-employee relationship free from the unlawful discrimination.

Discrimination based on a protected class is prohibited by law. Many of the principles that apply to sexual harassment set forth in section 3 below apply equally to other types of discrimination and harassment. The discrimination must be related to membership in a protected class. While it is not possible to list all of the circumstances that may constitute discrimination based on membership in a protected class, depending upon the totality of the facts, including the severity of the conduct and its pervasiveness, the following is a list of situations that could constitute discriminatory harassment:

- Verbal abuse based on membership in a protected class
- Use of degrading words based on membership in a protected class
- Jokes or language based on membership in a protected class.

Employees are protected from all forms of discrimination by anyone who enters the workplace. Customers and clients are also protected. Workplace is broadly defined and can include after hours parties sponsored by the employer, offsite meetings of the employer and other activities outside of work, including off duty activities, if those activities may impact the workplace.

Section 3. Definition of Harassment

Harassment includes communicating, sharing or displaying written or visual material or making verbal comments that are demeaning or derogatory to a person because of his or her gender, sexual orientation, gender identity, race, color, religion, national origin, age, disability, military status, genetics, criminal records (inquiries only) or other category protected under federal, state or local law. It includes materials or comments intended as humor. Harassment does not refer to purely voluntary social activities. It refers to behavior that is not welcomed by the employee, that is personally offensive to him or her, and that undermines morale and / or interferes with the ability of the employee to work effectively. The use of town facilities to disseminate, duplicate or display such materials is prohibited.

In Massachusetts, the legal definition for sexual harassment is: “sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or
- Such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.”

These definitions are broad and include any sexually oriented conduct, whether it is intended or not, by supervisors, employees and, in some instances, third parties, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers. Prohibited conduct also extends to any function or activity that is officially sponsored by the town. While it is not possible to list all of the circumstances that may constitute sexual harassment, depending upon the totality of the facts, including the severity of the conduct and its pervasiveness, following is a list of situations that could constitute sexual harassment:

- Verbal abuse of sexual nature
- Use of sexually degrading words
- Jokes or language of sexual nature
- Conversation or gossip with sexual overtones
- Obscene or suggestive gestures or sounds
- Sexually-oriented teasing
- Verbal comments of a sexual nature about an individual’s appearance or sexual terms used to describe an individual

- Inquiries into one's sexual experience
- Discussion of one's sexual activities
- Comments, jokes or threats directed at a person because of his/her sexual preference
- Unwelcome and repeated invitation (e.g., for lunch, dinner, drinks, dates, sexual relations)
- Demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment status or promises of preferential treatment
- Physical contact such as touching, hugging, kissing, stroking, fondling, patting, pinching or repeated brushing up against one's body
- Deliberate bumping, cornering, mauling, grabbing
- Assaults, molestations or coerced sexual acts
- Posting or distributing sexually suggestive objects, pictures, cartoons or other materials
- Sexually-oriented letters or notes
- Sending offensive or discriminatory messages or materials through the use of electronic communications (e.g. electronic mail, including the Internet, voice mail and facsimile) which contain overt sexual language, sexual implications or innuendo, or comments that offensively address someone's sexual orientation
- Staring at parts of a person's body
- Sexually suggestive gestures, leering
- Condoning sexual harassment

Sexual harassment is not limited to prohibited behavior by a male employee toward a female employee and can occur in a variety of circumstances:

- A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser
- The harasser does not have to be the victim's supervisor
- The victim does not have to be of the opposite sex from the harasser
- The victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the co-worker or interferes with the co-worker's work performance.

Section 4. Procedure

An employee who believes that he or she may have been the subject of, or who is aware of possible instances of discrimination or harassment prohibited by this policy, is urged to utilize this procedure as soon as possible after a perceived act of discrimination or harassment occurs, because prompt reporting allows the Town to investigate while the facts are still fresh and to take prompt corrective action, when appropriate.

The Town will handle the matter with as much confidentiality as possible under the circumstances and with due regard to the rights and wishes of all parties, recognizing that there are many circumstances where complete confidentiality is not possible. Upon receipt of a complaint, the Town will promptly undertake an investigation and, when appropriate, corrective action.

a) Private Counseling Option

In addition to the right to file a complaint, the employee may also seek advice from the Town Administrator. He/she is available to discuss any concerns the employee may have and to provide information about the Town's policy on preventing discrimination and harassment and the complaint process. If the employee desires, the Town Administrator will work with the employee to find a way of resolving concerns in an informal manner acceptable to the employee and in a manner which would offer as much privacy and confidentiality as is possible. If this option does not resolve the complaint, the employee may proceed through the complaint procedure set forth in b) below.

b) **Filing a Complaint**

If any Town employee believes that he or she has been subjected to discrimination or harassment, it is the Town's policy to provide the employee with the right to file a complaint with the Town. This may be done in writing or orally to the Affirmative Action Officer (AAO). The Town Administrator serves as the Affirmative Action Officer. If the Affirmative Action Officer is the offending party, then complaints may be made to the Chairman of the Board of Selectmen.

When a complaint is received, the AAO will then investigate the allegation in a fair and expeditious manner. The AAO's investigation may include a private interview with the person filing the complaint and with witnesses. The AAO will also interview the person alleged to have committed the harassment. The AAO may, if necessary, request written statements in addition to the private interviews. If the AAO is unable to resolve the complaint, the AAO will report the investigation findings to the Board of Selectmen.

If the investigation reveals that discrimination or harassment did occur, the Town will act promptly to eliminate the offending conduct, and where it is appropriate, will also impose disciplinary action which could include termination from employment. In addition, when the investigation is completed, through formal or informal procedures and to the extent appropriate, the Town will inform the person filing the complaint and the alleged harasser of the results of that investigation, including allegations that have not been sustained.

Section 5. Disciplinary Action

If it has been determined that discrimination or harassment has been committed by an employee, the Town will take such action as is appropriate under the circumstances. Such actions may include: counseling, informal or formal reprimands, written or verbal warnings, suspension, reduction in pay, reduction in duties, transfers, and other formal sanctions including termination from employment. All disciplinary action shall be conducted pursuant to the provisions of a collective bargaining agreement for union personnel and the Personnel Administration Plan of the Town of Boxborough for non-union personnel.

Section 6. State and Federal Remedies

In addition to the above, if an employee believes that he or she has been subjected to harassment, he or she may file a formal complaint with either or both of the government agencies listed below. In order to protect the charging party's rights, the employee must file a charge with the Massachusetts Commission against Discrimination (MCAD) within 300 days from the date of the alleged violation. A complaint under federal law should be filed with the United States Equal Employment Opportunity Commission (EEOC) within 180 days (300 days for sexual harassment) from the date of the alleged violation. If the charge is also covered by the Massachusetts Commission against Discrimination (MCAD), the filing deadline may be extended to 300 days.

The Massachusetts Commission Against Discrimination (MCAD)

Boston Office: The John McCormack Building, One Ashburton Place, Room 601, Boston, MA 02108; (617) 994-6000

Worcester Office: Worcester City Hall, 455 Main Street, Room 100, Worcester, MA 01608; (508) 799-8010

Springfield Office: 436 Dwight Street, Second Floor, Room 220, Springfield, MA 01103; (413) 739-2145

New Bedford Office: 800 Purchase Street, Room 501, New Bedford, MA 02740; (508) 990-2390

The United States Equal Employment Opportunity Commission (EEOC)

John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203; (800) 669-4000

**CERTIFICATION OF RECEIPT
TOWN OF BOXBOROUGH
DISCRIMINATION AND HARASSMENT PREVENTION POLICY**

I certify that I have been given a copy of the Town of Boxborough's Discrimination and Harassment Prevention Policy and provided the opportunity to ask questions about its content. In addition, I certify that I have fully read the policy and agree to abide by its provisions.

Employee Name

Employee Signature/Date

Copy of this page to Personnel file on _____
Date