

Town of Milford, MA
HARASSMENT PREVENTION POLICY

Issue Date: March 19, 2019

Effective Date: March 19, 2019

Objective

The Town of Milford strives to create and maintain a work environment where people are treated with dignity and respect. The Town will not tolerate unlawful discrimination or harassment of any kind. Through enforcement of this policy and education of employees, the Town will work to prevent, correct and discipline any behavior that violates this policy.

All employees, regardless of their positions, are covered by, and expected to comply with, this policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action, up to and including termination of employment, will be taken against any employee who violates this policy.

Managers, supervisors, appointed and elected officials, officers and members of Boards, Trustees, Committees and others who hold similar leadership roles and are working for or on behalf of the Town as agents, servants, or employees, who knowingly allow or tolerate discrimination, harassment or retaliation, including the failure to immediately report such misconduct to Human Resources, Town Counsel and/or the Town Administrator, are in violation of this policy and subject to disciplinary action.

Discrimination

It is a violation of the Town of Milford's policy to discriminate in the provision of employment opportunities, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, national origin, ancestry, genetics, age, religion, disability status, gender, sexual orientation, gender identity, or marital status.

Discrimination of this kind may also be strictly prohibited by a variety of federal, state and local laws, including Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1967 and the Americans with Disabilities Act of 1990. This policy is intended to comply with the prohibitions stated in these anti-discrimination laws.

Discrimination in violation of this policy will be subject to disciplinary measures up to and including termination.

Harassment

The Town of Milford prohibits harassment of any kind, including sexual harassment, and will take appropriate and immediate action in response to complaints or knowledge of violations of this policy. For purposes of this policy, harassment is any verbal or physical conduct designed to threaten, intimidate or coerce an employee, co-worker, or any person working for or on behalf of the Town.

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal harassment includes comments that are offensive or unwelcome regarding a person's national origin, race, color, religion, gender, sexual orientation, age, body, disability or appearance, including epithets, slurs and negative stereotyping.
- Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, sexual identity, marital status or other protected status.

Sexual Harassment

Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated.

Because the Town of Milford takes allegations of sexual harassment seriously, the Town will respond promptly to complaints of sexual harassment, and where it is determined that such inappropriate conduct has occurred; will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate. Note that while this policy sets forth the goal of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for workplace conduct which is deemed unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

(a) 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

(b) 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.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment. The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a workplace environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

While it is not possible to list all circumstances that may constitute sexual harassment, the following are some examples of conduct, which, if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness: unwelcome sexual advances - whether they involve physical touching or not; sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life, comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess; displaying sexually suggestive objects, pictures, cartoons; unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments; inquiries into one's sexual experiences; and discussion of one's sexual activities.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated.

Consensual Romantic or Sexual Relationships

The Town of Milford strongly discourages romantic or sexual relationships between a manager or other supervisory employee and his or her staff (an employee who reports directly or indirectly to that person) because such relationships tend to create compromising conflicts of interest or the appearance of such conflicts. In addition, such a relationship may create the perception by others that there is favoritism or bias in employment decisions affecting the staff employee. Moreover, given the uneven balance of power within such relationships, consent by the staff member is suspect and may be viewed by others, or at a later date by the staff member, as having been given as the result of coercion or intimidation. The atmosphere created by such appearances of bias, favoritism, intimidation, coercion or exploitation undermines the spirit of trust and mutual respect that is essential to a healthy work environment. If there is such a relationship, the parties need to be aware that one or both may be moved to a different department or other actions may be taken.

If any Town employee enters into a consensual relationship that is romantic or sexual in nature with a member of his or her staff (an employee who reports directly or indirectly to him or her), or if one of the parties is in a supervisory capacity in the same department in which the other party works, the parties must notify the HR Director or Town Administrator. Because of potential issues regarding quid pro quo harassment, the Town of Milford has made reporting mandatory. This requirement does not apply to employees who do not work in the same department or to parties where neither one supervises or otherwise manages responsibilities over the other.

Once the relationship is made known, Human Resources, the Town Administrator and Town Counsel will review the facts of the situation (reporting relationship between the parties, effect

on co-workers, job titles of the parties, etc.) and will determine whether one or both parties need to be moved to another job or department. If it is determined that one party must be moved, and there are jobs in other departments available for both, the parties may decide who will be the one to apply for a new position. If the parties cannot amicably come to a decision, or the party is not chosen for the position to which he or she applied, the HR Director and senior management will decide which party will be moved. That decision will be based on which move will be least disruptive to the organization as a whole. If no other jobs are available for either party, the parties will be given the option of terminating their relationship or resigning.

Retaliation

No hardship, loss, benefit or penalty may be imposed on an employee in response to:

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

Lodging a bona fide complaint will in no way be used against the employee or have an adverse impact on the individual's employment status. However, filing groundless or malicious complaints is an abuse of this policy and will be treated as a violation.

Any person who is found to have violated this aspect of the policy will be subject to discipline up to and including termination of employment.

Confidentiality

All complaints and investigations are treated confidentially to the extent possible, and information is disclosed strictly on a need-to-know basis. The identity of the complainant is usually revealed to the parties involved during the investigation, and the HR Director will take adequate steps to ensure that the complainant is protected from retaliation during and after the investigation. All information pertaining to a complaint or investigation under this policy will be maintained in secure files within the HR department.

Complaint Procedure

If any Town of Milford employee believes that he or she has been subjected to harassment, discrimination or retaliation, the employee has the right to file a complaint. This may be done in writing or orally. If you would like to file a complaint, you may do so by contacting:

Richard A. Villani, Town Administrator,
Town Counsel, or
Kristin Melpignano, Human Resources Director

The following procedure has been established for lodging a complaint of harassment, discrimination or retaliation. The company will treat all aspects of the procedure confidentially to the extent reasonably possible.

When a complaint is received, it will be promptly investigated in a fair and expeditious manner. The investigation will be conducted in such a manner as to maintain confidentiality to the extent practicable under the circumstances. The investigation will include a private interview with the person filing the complaint and with witnesses. The investigator will also interview the person alleged to have committed sexual harassment. When the investigation is completed to the extent appropriate, the person filing the complaint and the person alleged to have committed the conduct would be informed of the results of that investigation.

If it is determined that inappropriate conduct has occurred, the Town will act promptly to eliminate the offending conduct, and where it is appropriate the Town will also impose disciplinary sanctions.

1. Complaints should be submitted as soon as possible after an incident has occurred, preferably in writing. The HR Director may assist the complainant in completing a written statement or, in the event an employee refuses to provide information in writing, the HR Director will dictate the verbal complaint.
2. Upon receiving a complaint or being advised by a supervisor or manager that violation of this policy may be occurring, the HR Director will notify the Town Administrator and review the complaint with Town Counsel.
3. The HR Director will initiate an investigation to determine whether there is a reasonable basis for believing that the alleged violation of this policy occurred.
4. If necessary, the complainant and the respondent will be separated during the course of the investigation, either through internal transfer or administrative leave. Either party may, at any time, be placed on administrative leave.
5. During the investigation, the HR Director, together with Town Counsel, will interview the complainant, the respondent and any witnesses to determine whether the alleged conduct occurred.
6. Upon conclusion of an investigation, the HR Director or other person conducting the investigation will submit a written report of his or her findings to the Town Administrator and Town Counsel. If it is determined that a violation of this policy has occurred, the HR Director will recommend appropriate disciplinary action. The appropriate action will depend on the following factors:
 - a) the severity, frequency and pervasiveness of the conduct;
 - b) prior complaints made by the complainant;
 - c) prior complaints made against the respondent; and
 - d) the quality of the evidence (e.g., firsthand knowledge, credible corroboration).

If the investigation is inconclusive, or if it is determined that there has been no violation of policy but potentially problematic conduct may have occurred, the HR Director may recommend appropriate preventive or remedial action.

7. The Town Administrator will review the investigative report and any statements submitted by the complainant or respondent, discuss results of the investigation with the HR Director, Town Counsel, and other management staff and/or appointing authority as appropriate, and decide what action, if any, will be taken.

The final decision will be made by the respective appointing authority, Board or Commission. The HR Director will then meet with the complainant and the respondent separately and notify them of the findings of the investigation. If disciplinary or remedial action is to be taken, the respondent will be informed of the nature of the discipline or remedy and how it will be executed. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action, as the Town deems appropriate under the circumstances.

Alternative legal remedies

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

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using the local complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC - 180 days; MCAD - 6 months).

The United States Equal Employment Opportunity Commission (EEOC)
1 Congress Street - 10111 Floor
Boston, MA 02114
(617) 565-3200

The Massachusetts Commission Against Discrimination (MCAD)
Boston Office: One Ashburton Place - Room 601
Boston, MA 02108
(617) 727-3990
Springfield Office: 424 Dwight Street - Room 220
Springfield, MA 01103
(413) 739-2145