

PROFESSIONAL STANDARDS OF CONDUCT POLICY INCLUDING ANTI-HARASSMENT AND ANTI-DISCRIMINATION POLICY

I. PURPOSE AND SCOPE

The purpose of this policy is to define a Code of Conduct for Town employees, including the Town's Anti-Harassment and Anti-Discrimination Policy. This policy applies to all Town employees.

II. GENERAL POLICY REGARDING HARASSMENT IN THE WORKPLACE

It is the policy of the Town of Acton to maintain a work place that is free of all forms of harassment. Harassment includes behavior that is personally offensive, lowers morale and interferes with work effectiveness. It also undermines the integrity of the employment relationship and will not be tolerated, and may be subject to corrective action up to and including termination. Moreover, as a part of the overall nondiscrimination policy, as stipulated by State and Federal law, the Town of Acton prohibits all forms of harassment.

Harassment is a form of employment discrimination that violates state and Federal law. Harassment is unwelcome conduct that is based on race, color, religion, religious creed, sex (including pregnancy), sexual orientation, national origin, ancestry, age (40 or older), disability, genetic information, military service or any other category protected under applicable federal, state or local law. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.

- The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.
- Unlawful harassment may occur without economic injury to, or discharge of, the victim.

Unwelcome harassing conduct will not be tolerated. Employees are encouraged to inform the harasser directly that the conduct is unwelcome and must stop. Employees should also report harassment to the Director of Human Resources to prevent its escalation. Please see the Complaint Procedure, below, for specifics.

III. CODE OF CONDUCT

Employees are expected to conduct themselves in their dealings with internal and external customers in a manner that will enhance respect for, and confidence in, the employee and the Town. Employees must not only perform their duties with integrity, but must avoid conduct which gives a reasonable basis for creating the impression of acting otherwise. In addition, it is expected that visitors of all Town facilities will comply with the “Visitors – Code of Conduct” policy which is attached to this policy (attachment A).

IV. SEXUAL HARASSMENT

It is unlawful to harass a person (an applicant or employee) because of that person’s sex. Harassment can include “sexual harassment” or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person’s sex. For example, it is illegal to harass a woman by making offensive comments about women in general.

Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.

Although the law doesn’t prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim’s supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

As defined by federal law, “sexual harassment” means any unwelcome sexual advances or requests for sexual favors or any other verbal or physical conduct of a sexual nature where:

- 1) submission to such advances, requests or conduct is made either implicitly or explicitly a term or condition of an individual's employment;
- 2) submission to or rejection of such advances, requests or conduct by an individual is used as the basis for employment decisions affecting the individual; or
- 3) such advances, requests or conduct have the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment includes any type of sexually-oriented conduct, whether intentional or not, that is unwelcome and has the purpose or effect of creating a work environment that is hostile or offensive, interferes with work effectiveness or is coercive to a reasonable woman or man, as the case may be. The following are examples of conduct that, depending upon the circumstances, may constitute sexual harassment: (a) unwelcome and unwanted sexual jokes, language, epithets, advances or propositions; (b) written or oral abuse of a sexual nature, sexually degrading or vulgar words to describe an individual; (c) the display of sexually suggestive objects, pictures, posters or cartoons; (d) unwelcome and unwanted comments about an individual's body, sexual prowess or sexual deficiencies; (e) asking questions about sexual conduct; (f) unwelcome touching, leering, whistling, brushing against the body, or suggestive, insulting or obscene comments or gestures; and (g) demanding sexual favors in exchange for favorable reviews, assignments, promotions or continued employment, or promises of the same.

V. COMPLAINTS

The Town is committed to maintaining a productive work environment free from discrimination, including harassment. It will not tolerate harassment of employees by anyone, including members of the public. Harassment will not be tolerated in Town buildings, on Town property or in other settings in which employees may find themselves in connection with their employment.

Retaliation against employees for reporting or complaining of discrimination, harassment or sexual harassment (or for supporting an employee in making such a report or complaint, or for cooperating in the investigation of a report or complaint) is unlawful and will not be tolerated.

It is the responsibility of all employees of the Town to ensure that we work in an environment that is free from discrimination and harassment. If you are concerned about something, you may talk about it with any of your supervisors or with the Director of Human Resources. If, after discussion of the behavior in question, either party believes that this Policy may have been violated, then that party must proceed with the Complaint Procedure outlined in this section.

Complaint Procedure

To file a complaint or report an incident of discrimination, harassment, sexual harassment, or retaliation, please contact the Director of Human Resources. If that is difficult in the circumstances, you may talk with the Town Manager. An investigation of all complaints will be undertaken immediately, and corrective action will be taken when warranted. No person will be subject to any form of retaliation for filing a complaint or cooperating in its investigation. Information will be handled with the highest degree of confidentiality possible under the circumstances and with due regard for the rights and wishes of all parties. To the extent that the Town is permitted to do so by law, the Town will inform the person filing the Complaint regarding resolution of the Complaint once the investigation is completed.

After an investigation, any employee who is found by the Town of Acton, depending upon the circumstances of the situation, to have harassed another in the workplace will be subject to appropriate discipline up to and including termination.

In addition, if any employee believes that he or she has been subjected to discrimination, harassment, sexual harassment or retaliation in violation of law, he or she also may file a formal complaint with the appropriate federal or state government agencies, including the United States Equal Employment Opportunity Commission (EEOC) (800-669-4000) and the Massachusetts Commission Against Discrimination (MCAD) (617-994-6000). The contact information for those offices is provided below:

Massachusetts Commission
Against Discrimination
One Ashburton Place
Sixth Floor, Room 601
Boston, MA 02108
Phone: 617-994-6000
TTY: 617-994-6196

Equal Employment Opportunity Commission
John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
1-800-669-4000
617-565-3196 - FAX
1-800-669-6820 - TTY

VI. BULLYING

Bullying will not be tolerated in the workplace. Bullying cuts across boundaries of status group membership. It must be distinguished from illegal varieties of harassment. Bullying may happen when harassment is same-gender or same-race or when the bully enjoys potential legal protection because he or she is a member of a status-protected group.

Bullies can be cruelly innovative. They often vary their tactics hour to hour, day to day. Bullying includes, but is not limited to, verbal abuse (i.e. shouting, swearing, name calling, malicious sarcasm, threats to safety), behaviors/actions (i.e. public or private that are threatening, intimidating, humiliating, hostile, offensive, inappropriately cruel), abuse of authority (i.e. undeserved evaluations, denial of advancement, stealing credit, tarnished reputation, arbitrary instructions, unsafe assignments), interference with work performance (i.e. sabotage, undermining, ensuring failure) or destruction of workplace relationships (i.e. among co-workers, bosses, or customers).

VII. WORKPLACE VIOLENCE

Violence in the workplace will not be tolerated. For purposes of this policy, workplace violence is any behavior which is intended (or which a reasonable person may perceive is intended) to abuse or injure a person or damage or destroy property in the workplace including, but not limited to bullying, threats, physical, verbal, written or visual attack, or property damage. The following definitions are incorporated to assist employees to more fully understand the nature of the behavior prohibited by this policy. However, workplace violent behavior is not limited to only these descriptions:

A threat – expression of intent to cause physical or mental harm regardless of whether the person communicating the threat has the present ability to carry out the threat, and regardless of whether the threat is contingent, conditional or future;

Physical attack – intentional hostile physical contact with another person or an object such as hitting, fighting, pushing, shoving, or throwing;

Verbal attack – intentional hostile communication (including recorded messages) with another person such as abusive outbursts, verbal tirades intended to offend, offensive comments, or use of obscene or threatening language;

Written attack – the use of printed, electronic or social media, including notes, letters, drawings, pictures, or computerized mail, to threaten, abuse, ridicule, or harass people or to threaten property;

Visual attack – the use of bodily gestures that are threatening, obscene, or abusive;

Property damage – intentional damage (as a reasonable person may presume by the nature of the damage) to property which includes property owned by the Town, employees or others.

VIII. SAFETY-RELATED SEARCHES

For legitimate safety purposes when there is a credible threat of workplace violence, the Town reserves the right to search the possessions of employees, vendors, contractors, and subcontractors upon entering or leaving Town property, and at any time while on Town property without prior announcement. At such times, all vehicles, briefcases, purses, portfolios, lunch boxes, toolboxes, and other articles and containers may be subject to inspection. Employees refusing to submit or interfering with such searches may be subject to disciplinary action, up to and including termination.

IX. EMPLOYEE TRAINING

The department/division manager, or his/her designee, will orient all new employees to this policy and departmental/divisional procedures regarding reporting incidents of violence or retaliation, what to do if the employee is threatened and/or if an incident of violence actually takes place, and dealing with the after effects of an act of violence or retaliation.

X. EMPLOYEE ASSISTANCE PROGRAM

An Employee Assistance Program is available to all employees of the Town. Should an employee become the victim of an incident of workplace violence, the department/division manager should make sure the employee is aware of services available through the Employee Assistance Program (EAP) and may offer additional referral services to assist the employee and/or affected work group in coping with any effects of the incident.

Should it be determined in the investigation of a reported incident that an employee did commit a violent act, the employee shall at a minimum be referred to the EAP by the department/division manager. In these cases, failure by the employee to keep an initial appointment with the EAP shall result in disciplinary action.

XI. ACKNOWLEDGMENT

Massachusetts Fair Employment Practices Act, Chapter 151B requires employers to provide all employees an individual written copy of the policy against sexual harassment annually. It also requires that new employees be provided with a copy at the beginning of employment. The attached acknowledgment form is provided to ensure compliance.

TOWN OF ACTON

ACKNOWLEDGMENT FORM

(Please complete and return to Human Resources)

This is to certify that I have been provided an individual copy of the Town of Acton's Professional Standards of Conduct Policy Including Anti-Harassment and Anti-Discrimination Policy (which includes the Sexual Harassment Policy).

Employee Name (Please print)

Signature

Date

