



Anti-Discrimination and Harassment, including Sexual Harassment, Policy

Personnel Board

Town of Boxborough, MA

Intent and Purpose

The Town of Boxborough promotes a professional work environment which is free of all forms of abuse or harassment and in which all employees are treated with respect and dignity.

This policy describes the Town’s **prohibition** of unlawful discrimination and harassment in the workplace, to ensure compliance with all applicable federal laws and state statutes and regulations.

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Definition of Discrimination

Anti-discrimination laws prohibit any form of discrimination, including harassment based upon race, color, gender, gender identity, sexual orientation, national origin, ancestry, religion, age, physical or mental disability, pregnancy or pregnancy-related condition, genetic information, military service, veteran status, criminal records inquiries, or other categories protected under state or federal or local laws. Anti-

discrimination laws also prohibit retaliation against an individual who complains of discrimination. Anti-discrimination laws are applicable to all employment activities including:

- Recruitment
- Selection/hiring
- Compensation and benefits
- Professional development and training
- Reasonable accommodation for disabilities or religious practices
- Promotion
- Transfer
- Disciplinary actions
- Termination
- Layoff
- Other terms and conditions of employment

Examples of Prohibited Discriminatory Behavior

Discrimination may take many forms, including both verbal and nonverbal behaviors. Prohibited behavior includes, but is not limited to, the following behaviors:

- Slurs or other derogatory comments
- Sharing demeaning pictures, cartoons, or jokes
- Demeaning gestures
- Verbal abuse of a sexual nature
- Use of sexually degrading words
- Inequitable treatment when it comes to hiring, awarding promotions, taking disciplinary action, and providing career opportunities and professional support

Definition of Harassment

Harassment is a form of behavior, prohibited by state and federal law, which adversely affects the employment relationship.

Harassment refers to behavior that is not welcomed by the employee, that is personally offensive, and that undermines morale and/or interferes with the ability of the employee to work effectively and safely.

Harassment includes communicating, sharing, or displaying written or visual material or making verbal comments, including material or comments intended as humor, that are demeaning or derogatory to a person because of their race, color, gender, gender identity, sexual orientation, national origin, ancestry, religion, age, physical or mental disability, pregnancy or pregnancy-related condition, genetic information, military service, veteran status, criminal records inquiries, or other categories protected under state or federal or local laws.

The use of Town facilities to disseminate, duplicate or display such materials is prohibited.

Definition of Sexual Harassment

Massachusetts General Law defines sexual harassment as “sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- Submission to or rejection of such advances, request or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decision; 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.”

This definition is broad and includes any sexually-oriented conduct, whether it is intended or not, by supervisors, employees/officials 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.

Definition of Hostile Work Environment

A hostile work environment is one where the behavior of an individual or individuals creates an environment that unreasonably interferes with an employee’s and/or official’s ability to do their job. The behavior may leave the employee feeling afraid or violated. The offensive behavior happens in many forms including, but not limited to: bullying, intimidation, mockery and sexual harassment.

Definition of Quid Pro Quo

Quid pro quo is another form of sexual harassment, in which tangible job benefits are offered in exchange for sexual favors or withheld should the employee refuse to comply.

Examples of Prohibited Sexual Harassment

Here are some situations that may constitute sexual harassment. This is by no means an exhaustive list:

- Verbal abuse of a 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 their gender or sexual preference
- Unwelcome and repeated invitation (e.g., for lunch, dinner, drinks, dates, sexual relations)
- Request or demand for sexual favors accompanied by an implied or overt threat concerning an individual’s employment status or promises of preferential treatment
- Unwanted physical contact such as touching, hugging, kissing, stroking, fondling, patting, pinching or repeated brushing up against one’s body, bumping, cornering, mauling, or 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 describe someone's sexual orientation)
- Staring at parts of a person's body
- Sexually suggestive gestures, leering
- Condoning sexual harassment exhibited by others

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

- All genders can be the victim of sexual harassment.
- All genders may be the harasser.
- The harasser does not have to be the victim's supervisor.
- 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.

Policy

The Town of Boxborough promotes a professional and productive workplace in which all employees/officials are treated with dignity and respect and without discrimination. Employees/officials are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity. In addition, the Town of Boxborough strives to be a workplace free from discrimination of any kind.

Because the Town takes allegations of unlawful discrimination and harassment seriously, officials will respond promptly to complaints and, where it is determined that such inappropriate conduct has occurred, will act promptly to impose such corrective action as is necessary, including disciplinary action and training where appropriate.

Who is covered by this policy?

The policy applies to all employees of the Town of Boxborough, including elected and appointed officials, excluding those employees under the supervision and control of the School Committee. Employees whose employment is governed by a collective bargaining agreement are subject only to those provisions of this Policy not specifically regulated by law or agreement.

Employees/officials are protected from all forms of discrimination by anyone who enters the workplace. Residents, applicants, customers, clients, vendors, and visitors are also protected. "Workplace" is broadly defined and can include after-hours functions sponsored by the Town, offsite meetings, and other activities outside of work, including off duty activities, if those activities may impact the workplace.

Conduct Outside the Workplace

This policy also applies to behavior (including both discrimination and harassment) that occurs between co-workers or between a supervisor/manager/department head/official and an employee that takes place outside the workplace. This includes, but is not limited to, behavior that takes place in person, online, or via phone, text or email. When the conduct in question occurs outside of the workplace, the Town may consider the following factors and others in assessing whether the conduct constitutes conduct in violation of this policy:

- Whether the event at which the conduct occurred is linked to the workplace in any way, such as at a Town-sponsored function
- Whether the conduct occurred during work hours
- The severity of the alleged conduct
- The work relationship of the complainant and the alleged offender
- Whether the alleged conduct adversely affected the terms and conditions of the complainant's employment or work environment.

Retaliation

Retaliation against an individual who submits a complaint or against those who may cooperate with an investigation of a harassment complaint, is against the law and shall not be tolerated. Anyone found to have engaged in retaliation will be subject to disciplinary action, up to and including termination of employment or removal from an appointed or elective office.

Retaliation can be overt or subtle. Retaliation may include, but is not limited to, treating a complainant or witness differently, more harshly, or in a hostile manner; physical interference with movement such as blocking a path; derogatory comments or action which would tend to have a chilling effect on other complainants; sudden investigations of the complainant's private life; or sudden strict enforcement of work rules.

Procedure

An employee who believes that they may have been the subject of, or who is aware of possible instances of discrimination or harassment prohibited by this policy, is urged to use this procedure as soon as an act of discrimination or harassment is perceived to have occurred. Prompt reporting allows the Town to investigate the matter while the facts are still fresh, and to take quick corrective action, when appropriate.

a) Private Counseling

In addition to the right to file a complaint, the employee/official may also seek advice from the Town Administrator (TA). The TA is available to discuss any concerns the employee/official may have and to provide information about the Town's policy on preventing discrimination and harassment and the complaint process. If the employee/official desires, the TA will work with the employee/official to find a way of resolving concerns in an informal manner acceptable to the employee/official 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/official may proceed through the complaint procedure set forth in b) below.

b) Filing a Complaint

If any Town employee/official believes that they have been subjected to discrimination or harassment, the employee/official has a right to file a complaint with the Town. This may be done in writing or orally to the Affirmative Action Officer (AAO), which in the case of Boxborough is the Town Administrator. If the Affirmative Action Officer is the offending party, then complaints may be made to the Select Board Chair.

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 any 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 perform these duties expeditiously, or to resolve the complaint, the Select Board Chair or their designee will take over this task. The AAO, Select Board Chair, or their designee will report the investigation findings to the Select Board.

If the investigation reveals that discrimination or harassment did occur, the Town will act promptly to take decisive action. In addition, when the investigation is complete, the Town will inform the person filing the complaint and the alleged harasser of the results of that investigation, including allegations that have or have not been sustained.

c) Confidentiality

Given the sensitive nature of complaints of discrimination and/or harassment, all parties and witnesses in a complaint, as well as department heads, supervisors, etc. who are aware of a complaint or investigation thereof, are strongly encouraged to maintain this information as confidential, so as not to negatively impact an investigation.

Employees/officials should be mindful of provisions of the Conflict of Interest Law, particularly MGL chapter 268A, Section (23)(2), which prohibits a municipal employee/official from improperly disclosing information that is protected from disclosure under the Public Records Law, and acquired by an employee/official in the course of official duties. This law also prohibits a municipal employee/official from using such information to further the employee's/official's personal interest. Violations of this statute may lead to disciplinary action up to and including termination.

Disciplinary Action

If it has been determined that discrimination or harassment has been committed by an employee/official, the Town will take such action as appropriate. 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 or dismissal from an appointed or elected office. 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.

State and Federal Remedies

In addition to the above, if an employee/official believes that they have been subjected to harassment, they may file a formal complaint with either or both of the government agencies listed below. In order to
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protect the charging party's rights, the employee/official 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

United States Equal Employment Opportunity Commission (EEOC)

John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
Phone: 800-669-4000
TTY: 800-669-6820

Massachusetts Commission Against Discrimination (MCAD)

Boston Office

One Ashburton Place
Sixth Floor, Room 601
Boston, MA 02108
617-994-6000

Worcester Office

484 Main Street,
Room 320
Worcester, MA 01608
508-453-9630

Springfield Office

436 Dwight Street
Second Floor, Room 220
Springfield, MA 01103
413-739-2145

New Bedford Office

128 Union Street
Suite 206
New Bedford, MA 02740
774-510-5801

This policy revokes and replaces all previous policies on this topic including the "Discrimination and Harassment Prevention Policy" of 8/23/2010, amended 03/07/2016.

Acknowledgement of
Anti-Discrimination and Harassment, including Sexual Harassment, Policy

I certify that I have been given a copy of the Town of Boxborough's "Anti-Discrimination and Harassment, including Sexual Haarassment, 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