



TOWN OF WELLESLEY POLICY AGAINST DISCRIMINATION, HARASSMENT AND RETALIATION

HR Board Approved:

Town Meeting Approved: October 26, 2020

The Town of Wellesley is committed to promoting and maintaining a workplace that is free of harassment. The Town of Wellesley strictly prohibits discrimination and/or harassment based on an applicant's or employee's race, color, religious creed, sex (including pregnancy, childbirth and related medical conditions), gender identity or expression, sexual orientation, national origin or ancestry, physical or mental disability/handicap, age (40 and over), military or veteran status, marital status, certain criminal records, genetic information or testing, HIV testing, or any other characteristic protected by law.

All employees, regardless of position, are covered by, and are expected to comply with, this policy and to take appropriate measures to ensure that prohibited conduct does not occur. This policy against harassment also covers other individuals who have a relationship with the Town and may include residents, independent contractors, vendors, and visitors.

Conduct is considered harassment and is prohibited by this policy when it has the purpose or effect of unreasonably interfering with an employee's work performance, or creating an intimidating, hostile, or offensive work environment. Harassment can be physical, visual, electronic, verbal, or nonverbal behavior, and can include stereotypical terms, derogatory statements, abusive language, and discriminatory remarks that are offensive or objectionable to the recipient and involve a protected characteristic. While in some cases individuals may make harassing comments or jokes or engage in physical conduct without intending harm, such actions can be unwanted, offensive, threatening, and perceived as harassment.

The Town of Wellesley takes all allegations of harassment seriously and responds promptly to complaints of harassment. The Town of Wellesley will not tolerate retaliation against an individual who, in good faith, has complained about harassment or against an individual who cooperates with an investigation into a complaint of harassment. Retaliation is a serious violation of this policy and should be reported immediately. Anyone who is found to have retaliated against an employee for complaining about or reporting a harassment complaint, or for cooperating or otherwise participating in a harassment investigation, will be subject to discipline, up to and including termination of employment.

When the Town of Wellesley determines that inappropriate conduct has occurred, it will act promptly to eliminate the conduct and impose such corrective and remedial action as is necessary, including disciplinary action and termination where appropriate. Corrective action taken will be proportionate to the offensiveness of the conduct. For example, sexual assault or a demand for sexual favors in return for a promotion may result in termination of an employee; the continued use of derogatory gender-based language after an initial warning may result in a suspension; and the first instance of telling an inappropriate joke may warrant a warning. Remedial action, such as training or re-training, may be in order as well. These are examples only; each circumstance will be judged on its own merits and may warrant different corrective action.

While this policy sets forth the Town's goals of promoting a workplace that is free of harassment, the policy is not designed or intended to limit its authority to discipline or take remedial action for workplace conduct which it deems unacceptable, regardless of whether that conduct satisfies the definition of harassment.

Sexual harassment, one of the most common forms of harassment, is unwelcome verbal or physical behavior based upon a person's gender/sex and includes unwanted verbal or physical sexual advances, requests for sexual favors or visual, verbal, or physical conduct of a sexual nature when:

Submission to such conduct is made a term or condition of employment; or

Submission to, or rejection of, such conduct is used as a basis for employment decisions affecting the individual; or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment, even if the individual making the report is not the intended target of such conduct.

Sexual harassment is a form of unlawful discrimination under federal and state law and Town policy. Determinations of whether particular language or conduct is subject to disciplinary action under this policy are made on an individual basis in light of all of the circumstances. The following, however, are some additional examples of conduct that all employees of the Town of Wellesley are cautioned to avoid. Such conduct may violate the Town of Wellesley's policy against sexual harassment, whether or not it constitutes sexual harassment under the law.

This is not an exhaustive list.

Unwelcome sexual flirtations, advances, or propositions, whether or not they involve sexual touching; Comments to, or about, any employee or their appearance that are sexual in nature or would otherwise tend to be degrading; offensive sexually-oriented verbal comments, name-calling, whistling, epithets, slurs, mockery, ridicule, insults, put-downs, or teasing; offensive physical contact such as unwanted patting, grabbing, pinching, brushing against another's body, hugging, tickling, cornering, impeding or blocking movement, or forced sexual intercourse or assault; jokes or other remarks with sexual content that are graphic or that may otherwise be offensive to others; viewing, displaying or distributing inappropriate or sexually-explicit material in any medium; a repetition of any words or conduct of a sexual or gender-based nature; Repeated unwelcome invitations to social engagements or non-work-related activities; discussion of or inquiries into one's sexual activities or experiences, gossip regarding one's sex life, or comment about an individual's sexual activity, deficiencies, or prowess; or texting, sending picture messages, or otherwise communicating inappropriately in a sexual manner via cell phones, smartphones, over the internet, using social media, or the like.

Examples of other forms of harassment include the following:

Conduct that unreasonably interferes with an individual's work performance that creates an intimidating or offensive work environment, that otherwise adversely affects an individual's employment opportunities, and that implicates an employee's protected characteristic. This can include conduct via texting, sending picture messages, or otherwise communicating inappropriately via cell phones, smartphones, over the internet, using social media, or the like. ☐ Hostile physical contact, intimidating acts, threats of such actions or violence, or any other actions that may be considered threatening or hostile in nature and that implicate an employee's protected characteristic. Derogatory

remarks, epithets, slurs, negative stereotyping, offensive jokes, cartoons, teasing, the display or circulation of offensive printed, visual, or electronic materials, or similar misconduct that implicates an employee's protected characteristic.

Any employee who believes that they have been subject to behavior prohibited under this policy is encouraged to promptly report the matter using the complaint procedure described below. It is a violation of the Town of Wellesley's policy and it is unlawful to retaliate against an employee who in good faith makes or files a complaint of harassment or cooperates in an investigation of a complaint of harassment. Any such retaliation will also result in disciplinary action, up to and including termination of employment. An employee who engages in sexual harassment is subject to disciplinary action, up to and including termination of employment. A manager who knowingly allows sexual harassment or retaliation to continue is subject to disciplinary action, up to and including termination of employment.

Internal Complaint Procedure

Common workplace-based responses by those who experience harassment are to avoid the harasser, deny or downplay the gravity of the situation, or attempt to ignore, forget, or endure the behavior. The Town urges employees, instead, to speak up and report any harassment. This applies whether the harassment is by any employee or other individual who has a relationship with the Town which enables it to exercise some control over the individual's conduct in places and activities that relate to the Town's work. This reporting system applies to those individuals who have experienced harassment, as well as those employees who have observed harassment.

Employees subjected to harassment are encouraged to directly inform the offending person(s) that such conduct is offensive and must stop if they are comfortable in so doing. If, however, the employee does not wish to communicate directly with the alleged harasser(s), or if direct communication has been ineffective, then that employee is encouraged and expected to utilize this procedure.

If an employee believes that they have been subjected to sexual or other forms of harassment or discrimination, whether by a supervisor, a co-worker, or any other person with whom the employee comes in contact with during work for the Town of Wellesley, the employee should report the incident immediately to their Department Head or the Human Resources Director, Town Hall, 525 Washington Street, Wellesley, MA (781431-1019, x2244). If the complaint is against a member of the Human Resources Department staff, employees may also contact Town Counsel.

Harassment Investigation

The Town of Wellesley's policy is to support anyone who makes a good-faith complaint of harassment or discrimination. When we receive a complaint, we will promptly and thoroughly investigate the allegation, and will strive to maintain confidentiality to the extent practicable under the circumstances. The investigation will include interviews with the person making the complaint, the alleged harasser, and any witnesses. It is the responsibility of every employee who participates in the investigation to cooperate fully and to refrain from discussing the matter with persons other than those conducting the investigation so that confidentiality is maintained to the greatest extent possible while the investigation is ongoing. When the Town has completed its investigation, it will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

External Complaint Procedure

In addition to the above, if you believe you have been subjected to harassment or discrimination, you may file a complaint with either or both of the government agencies set forth below. Using the Town of Wellesley's 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 (300 days).

The United States Equal Employment Opportunity Commission (EEOC)

John F. Kennedy Federal Building
475 Government Center Boston, MA 02203 (617) 565-3200

The Massachusetts Commission Against Discrimination (MCAD)

Boston Office
One Ashburton Place, Rm. 601
Boston, MA 02108
(617) 994-6000

Springfield Office
424 Dwight Street, Rm. 220
Springfield, MA 01103
(413) 739-2145

Worcester Office
488 Main Street, Rm. 320
Worcester, MA 01608
(508) 453-9630

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

