



Town of Wellesley

Municipal Policies Booklet

This booklet includes:

Massachusetts Wage and Hour Notice

FMLA Notification

Unlawful Harassment Policy

Notice of Privacy Practices

Domestic Violence Leave Act

IT Policies

Employee Assistance Program Information

Summary of Conflict of Interest Law

Personnel Policies #1 - #16

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Massachusetts Wage & Hour Laws



Office of Massachusetts
Attorney General
Maura Healey



Fair Labor Hotline
(617) 727-3465
TTY (617) 727-4765



www.mass.gov/ago/fairlabor

State law requires all employers to post this notice at the workplace in a location where it can easily be read. M.G.L. Chapter 151, Section 16; 454 C.M.R. 27.07(1)

Minimum Wage

M.G.L. Chapter 151, Sections 1, 2, 2A, and 7

In Massachusetts, all workers are presumed to be employees. The minimum wage applies to **all** employees, except:

- agricultural workers (\$8.00 per hour is the minimum wage for most agricultural workers),
- members of a religious order,
- workers being trained in certain educational, nonprofit, or religious organizations, and
- outside salespeople.

Effective Date	Minimum Wage	Service Rate
January 1, 2017	\$11.00	\$3.75
January 1, 2019	\$12.00	\$4.35
January 1, 2020	\$12.75	\$4.95
January 1, 2021	\$13.50	\$5.55
January 1, 2022	\$14.25	\$6.15
January 1, 2023	\$15.00	\$6.75

M.G.L. Chapter 149, Section 152A; M.G.L. Chapter 151, Section 7

The hourly "service rate" applies to workers who provide services to customers and who make more than \$20 a month in tips. The average hourly tips, plus the hourly service rate paid to the worker must add up to the minimum wage (or more).

Managers, supervisors and owners must never take any part of their employees' tips.

Tips and service charges listed on a bill must be given only to wait staff, service bartenders, or other service employees.

Tip pooling is allowed only for wait staff, service bartenders, and other service employees.

Overtime

M.G.L. Chapter 151, Sections 1A and 1B

Generally, employees who work more than 40 hours in any week must be paid overtime. Overtime pay is at least 1.5 x the regular rate of pay for each hour worked over 40 hours in a week.

For some employees who get paid the "service rate," the overtime rate is 1.5 x the basic minimum wage, *not* the service rate.

Exception: Under state law, some jobs and workplaces are exempt from overtime. For a complete list of overtime exemptions, visit www.mass.gov/ago/fairlabor or call the Attorney General's Fair Labor Division at (617) 727-3465.

Payment of Wages

M.G.L. Chapter 149, Section 148; 454 C.M.R. 27.02

The law says when, what, and how employees must be paid. An employee's pay (or wages) includes payment for all hours worked, including tips, earned vacation pay, promised holiday pay, and earned commissions that are definitely determined, due and payable.

Hourly employees must be paid every week or every other week (bi-weekly). The deadline to pay is 6 or 7 days after the pay period ends, depending on how many days an employee worked during one calendar week.

Employees who *quit* must be paid in full on the next regular payday or by the first Saturday after they quit (if there is no regular payday). Employees who are *fired* or *laid off* must be paid in full on their last day of work.

Paystub Information

M.G.L. Chapter 149, Section 148

All employees must get a statement, at no cost, with their pay that says the name of the employer and employee, the date of payment (month, day, and year), the number of hours worked during the pay period, the hourly rate, and all deductions or increases made during the pay period.

Pay Deductions

M.G.L. Chapter 149, Section 148; 454 C.M.R. 27.05

An employer cannot deduct money from an employee's pay unless the law allows it (such as state and federal income taxes), or the employee asked for a deduction to be made for the employee's own benefit (such as to put money aside in the employee's savings account).

An employer cannot take money from an employee's pay for the employer's ordinary business costs (for example: supplies, materials or tools needed for the employee's job). An employer who requires an employee to buy or rent a uniform must refund the actual costs to the employee.

The law also puts limits on when and how much money an employer can take from an employee's pay for housing and meals the employer gives to the employee.

Hours Worked

454 C.M.R. 27.02

Hours worked or "working time" includes all time that an employee must be on duty at the employer's worksite or other location, and works before or after the normal shift to complete the work.

Meal Breaks

M.G.L. Chapter 149, Sections 100 and 101

Most employees who work more than 6 hours must get a 30-minute meal break. During their meal break, employees must be free of all duties and free to leave the workplace. If, at the request of the employer, an employee agrees to work or stay at the workplace during the meal break, the employee must get paid for that time.

Payroll Records

M.G.L. Chapter 151, Section 15

Payroll records must include the employee's name, address, job/occupation, amount paid each pay period, and hours worked (each day and week).

Employers must keep payroll records for 3 years. Employees have the right to see their own payroll records at reasonable times and places.

Employees Under 18 – Child Labor

All employers in Massachusetts must follow state and federal laws for employees who are under 18 (minors). These laws say *when*, *where*, and *how long* minors may work. They also say what kinds of work or tasks minors must NOT do.

Work Permits Required - Most workers under 18 must obtain a work permit. Employers must keep their minor workers' work permits on file at the worksite. To get a work permit, the minor must apply to the superintendent of the school district where the minor lives or goes to school. To learn more about getting a work permit, contact the Department of Labor Standards at (617) 626-6975, or www.mass.gov/dols.

Dangerous Jobs & Tasks Minors Must Not Do

Age	Must Not
16 & 17	<ul style="list-style-type: none">• Drive most motor vehicles or forklifts• Work at a job that requires that the employee have or use a firearm• Use, clean or repair certain kinds of power-driven machines• Handle, serve, or sell alcoholic beverages• Work 30 or more feet off of the ground
14 & 15	<ul style="list-style-type: none">• Cook (except on electric or gas grills that do not have open flames), operate fryolators, rotisseries, NIECO broilers, or pressure cookers• Operate, clean or repair power-driven food slicers, grinders, choppers, processors, cutters, and mixers• Work in freezers or meat coolers• Perform any baking activities• Work in or near factories, construction sites, manufacturing plants, mechanized workplaces, garages, tunnels, or other risky workplaces
Under 14	<ul style="list-style-type: none">• Minors under 14 cannot work in Massachusetts in most cases.

These are just some examples of tasks prohibited under both state and federal law. **For a complete list** of prohibited jobs for minors, contact the Attorney General's Fair Labor Division: (617) 727-3465 • www.mass.gov/ago/youthemployment. Or contact the U.S. Department of Labor: (617) 624-6700 • www.youth.dol.gov

Sick Leave

M.G.L. Chapter 149, Section 148C

Most employees have the right to earn 1 hour of sick leave for every 30 hours they work, and they may earn and take up to 40 hours of sick leave a year. Employees begin accruing sick time on their first day of work. Employees must have access to their sick leave 90 days after starting work.

Eligible employees may use their sick leave if they or their child, spouse, parent, or spouse's parent is sick, injured, or has a routine medical appointment. They may also use sick leave for themselves or their child to address the effects of domestic violence.

Unless it is an emergency, employees must notify the employer before using sick leave.

Employees who miss more than 3 days in a row may need to provide their employer a doctor's note.

Paid Sick Leave

Employers with 11 or more employees *must* provide paid sick leave. Employers with fewer than 11 employees must provide sick leave; however, it does not need to be paid.

Employers Must Not Discriminate

M.G.L. Chapter 149, Section 105A; M.G.L. Chapter 151B, Section 4

Subject to certain limited exceptions, employers must not pay one employee less for doing the same or comparable work as another employee of a different gender.

They must not discriminate in hiring, pay or other compensation, or other terms of employment based on a person's:

- Race or color
- Religion, national origin, or ancestry
- Sex (including pregnancy)
- Military service
- Sexual orientation or gender identity or expression
- Genetic information or disability
- Age

Small Necessities Leave

M.G.L. Chapter 149, Section 52D

In some cases, employees have the right to take up to 24 hours unpaid leave every 12 months for their:

- child's school activities,
- child's doctor or dentist appointment, or
- elderly relative's doctor or dentist appointments, or other appointments.

Employees are eligible for this leave if the employer has at least 50 employees and the employee has:

- been employed for at least 12 months by the employer and
- worked at least 1,250 hours for the employer during the previous 12-month period.

Reporting Pay

454 C.M.R. 27.04(1)

Most employees must be paid for 3 hours at no less than minimum wage if the employee is scheduled to work 3 or more hours, and reports to work on time, and is not given the expected hours of work.

Rights of Temporary Workers

M.G.L. Chapter 149, Section 159C

To learn about rights of temporary workers and employees hired through staffing agencies, call: 617-626-6970 or go to: www.mass.gov/dols.

Rights of Domestic Workers

M.G.L. Chapter 149, Section 190

To learn about additional rights for workers who provide housekeeping, cleaning, childcare, cooking, home management, elder care, or similar services in a household, go to www.mass.gov/ago/DW.

Public Works and Public Construction Workers

M.G.L. Chapter 149, Section 26-27H

Workers who work on public construction projects and certain other public work must be paid the prevailing wage, a minimum rate set by the Department of Labor Standards based on the type of work performed.

Domestic Violence Leave

M.G.L. Chapter 149, Section 52E

Employees who are victims, or whose family members are victims, of domestic violence, sexual assault, stalking or kidnapping have the right to 15 days of leave for related needs, such as health care, counseling, and victims services; safe housing; care and custody of their children; and legal help, protective orders, and going to court.

The leave can be paid or unpaid depending on the employer's policy. This law applies to employers with 50 or more employees.

Employees Have the Right to Sue

M.G.L. Chapter 149, Section 150; M.G.L. Chapter 151, Sections 1B and 20

Employees have the right to sue their employer for most violations of wage and hour laws.

Employees may sue as an individual or they may sue their employer as a group if they have similar complaints. Employees who win their case will receive back pay, triple damages, attorneys' fees, and court costs.

Important! There are strict deadlines for starting a lawsuit. For most cases, the deadline is 3 years after the violation.

Employers Must Not Retaliate

M.G.L. Chapter 149, Section 148A; M.G.L. Chapter 151, Section 19

It is against the law for an employer to punish or discriminate against an employee for making a complaint or trying to enforce the rights explained in this poster.

The laws explained in this poster apply to all workers, regardless of immigration status, including undocumented workers. If an employer reports or threatens to report a worker to immigration authorities because the worker complained about a violation of rights, the employer can be prosecuted and/or subject to civil penalties.

M.G.L. Chapter 149, Sections 56 – 105

For more information on these laws, contact the Department of Labor Standards at (617) 626-6975, or www.mass.gov/dols.

Time & Schedule Restrictions for Minors

Age	Must not work	At any time:
16 & 17	<p>At night, from 10 p.m. to 6 a.m. (or past 10:15 if the employer stops serving customers at 10 p.m.)</p> <p>Exception: On non-school nights, may work until 11:30 p.m. or until midnight, if working at a restaurant or racetrack.</p>	<ul style="list-style-type: none">• More than 9 hours per day• More than 48 hours per week• More than 6 days per week
14 & 15	<p>At night, from 7 p.m. to 7 a.m. Exception: In summer (July 1 – Labor Day), may work until 9 p.m.</p> <p>During the School Year:</p> <ul style="list-style-type: none">• During school hours• More than 3 hours on any school day• More than 18 hours during any week• More than 8 hours on any weekend or holiday	<p>When school is not in session:</p> <ul style="list-style-type: none">• More than 8 hours on any day• More than 40 hours per week• More than 6 days per week

***Exception:** For school-approved career or experience-building jobs, students

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service-member during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.*

***The FMLA definitions of “serious injury or illness” for current servicemembers and veterans are distinct from the FMLA definition of “serious health condition”.**

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any “group health plan” on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months*, and if at least 50 employees are employed by the employer within 75 miles.

***Special hours of service eligibility requirements apply to airline flight crew employees.**

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and

a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.



For additional information:
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627
WWW.WAGEHOUR.DOL.GOV

U.S. Department of Labor | Wage and Hour Division



WHD Publication 1420 · Revised February 2013



I. Introduction

It is the goal of the Town of Wellesley to promote a workplace that is free of unlawful harassment. Harassment of employees because of their race, color, gender, age, disability/handicap, religious creed, national origin, ancestry, sexual orientation, genetic information, gender identity/expression, veteran's status, military status, pregnancy and any other legally protected category under state or federal law 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 such harassment or retaliation against individuals for cooperating with an investigation of a harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from unlawful harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

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

Please note that while this policy sets forth our goals of promoting a workplace that is free of unlawful harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for conduct that we deem unacceptable, regardless of whether that conduct satisfies the definition of unlawful harassment.

II. Definition of Sexual Harassment

Sexual harassment means 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 review, 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 work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

While it's not possible to list all those additional 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;

- 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 suggesting objects, pictures, cartoons;
- Leering, whistling, brushing against the body, sexual gestures, suggesting or insulting comments;
- Inquiries into one's sexual experiences; and
- Discussion of one's sexual activities.
- The dissemination of sexually explicit voice mail, e-mail, graphics, downloaded material or websites in the workplace.

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.

III. Complaints of Unlawful Harassment

If any of our employees believes that he or she has been subjected to unlawful harassment, the employee has the right to file a complaint with our organization. This may be done in writing or orally.

If you would like to file a complaint, you may do so by contacting your Department Head or the Human Resources Director, Town Hall, 525 Washington Street, Wellesley, MA (781-431-1019, x2244) or Town Counsel, C/O Board of Selectmen, 525 Washington Street, Wellesley, MA 02482 (781-431-1019, x2219). These persons are also available to discuss any concerns you may have and to provide information to you about our policy on unlawful harassment and our complaint process.

IV. Harassment Investigation

When we receive a complaint of unlawful harassment, we will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent consistent with the law with a fair and full investigation and as practicable under the circumstances. Our investigation will usually include private interviews with the person filing the complaint and with any witnesses. We will also interview the person alleged to have committed the harassment. All employees are expected to cooperate in any investigation that takes place. When we have completed our investigation, we 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.

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where it is appropriate, we will also impose disciplinary action and take remedial action. We will also take appropriate action if a non-employee engages in conduct that violates this policy.

V. Disciplinary Action

If it is determined that inappropriate conduct has taken place by one of our employees, we will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as we deem appropriate under the circumstances.

VI. State and Federal Remedies

In addition to the above, if you believe you have been subjected to unlawful harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a 300-day period for filing a claim.

1. The United States Equal Employment Opportunity Commission (EEOC)
John F. Kennedy Federal Building
475 Government Center
Boston, MA 02114
617-565-3196
2. The Massachusetts Commission Against Discrimination (MCAD)

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

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



This notice describes how medical information about you may be used and disclosed and how you can get access to this information. Please review it carefully.

Your Rights

When it comes to your health information, you have certain rights. This section explains your rights and some of our responsibilities to help you.

Get a copy of health and claims records

- You can ask to see or get a copy of your health and claims records and other health information we have about you. Ask us how to do this.
- We will provide a copy or a summary of your health and claims records, usually within 30 days of your request. We may charge a reasonable, cost-based fee.

Ask us to correct health and claims records

- You can ask us to correct your health and claims records if you think they are incorrect or incomplete. Ask us how to do this.
- We may say "no" to your request, but we'll tell you why in writing within 60 days.

Request confidential communications

- You can ask us to contact you in a specific way (for example, home or office phone) or to send mail to a different address.
- We will consider all reasonable requests, and must say "yes" if you tell us you would be in danger if we do not.

Ask us to limit what we use or share

- You can ask us not to use or share certain health information for treatment, payment, or our operations.
- We are not required to agree to your request, and we may say "no" if it would affect your care.

Get a list of those with whom we've shared information

- You can ask for a list (accounting) of the times we've shared your health information for six years prior to the date you ask, who we shared it with, and why.
- We will include all the disclosures except for those about treatment, payment, and health care operations, and certain other disclosures (such as any you asked us to make). We'll provide one accounting a year for free but will charge a reasonable, cost-based fee if you ask for another one within 12 months.

Get a copy of this privacy notice

- You can ask for a paper copy of this notice at any time, even if you have agreed to receive the notice electronically. We will provide you with a paper copy promptly.

Choose someone to act for you

- If you have given someone medical power of attorney or if someone is your legal guardian, that person can exercise your rights and make choices about your health information.
- We will make sure the person has this authority and can act for you before we take any action.

File a complaint if you feel your rights are violated

- You can complain if you feel we have violated your rights by contacting us using the information on page 4.
- You can file a complaint with the U.S. Department of Health and Human Services Office for Civil Rights by sending a letter to 200 Independence Avenue, S.W., Washington, D.C. 20201, calling 1-877-696-6775, or visiting www.hhs.gov/ocr/privacy/hipaa/complaints/.
- We will not retaliate against you for filing a complaint.

Your Choices

For certain health information, you can tell us your choices about what we share. If you have a clear preference for how we share your information in the situations described below, talk to us. Tell us what you want us to do, and we will follow your instructions.

In these cases, you have both the right and choice to tell us to:

- Share information with your family, close friends, or others involved in payment for your care
- Share information in a disaster relief situation

If you are not able to tell us your preference, for example if you are unconscious, we may go ahead and share your information if we believe it is in your best interest. We may also share your information when needed to lessen a serious and imminent threat to health or safety.

In these cases we never share your information unless you give us written permission:

- Marketing purposes
- Sale of your information

Our Uses and Disclosures

How do we typically use or share your health information? We typically use or share your health information in the following ways.

Help manage the health care treatment you receive

- We can use your health information and share it with professionals who are treating you.
- Example: A doctor sends us information about your diagnosis and treatment plan so we can arrange additional services.

Pay for your health services

- We can use and disclose your health information as we pay for your health services.

Run our organization

- We can use and disclose your information to run our organization and contact you when necessary.
- We are not allowed to use genetic information to decide whether we will give you coverage and the price of that coverage. This does not apply to long term care plans.
- Example: We use health information about you to develop better services for you.

Administer your plan

- We may disclose your health information to your health plan sponsor for plan administration.
- Example: Your company contracts with us to provide a health plan, and we provide your company with certain statistics to explain the premiums we charge.

How else can we use or share your health information? We are allowed or required to share your information in other ways – usually in ways that contribute to the public good, such as public health and research. We have to meet many conditions in the law before we can share your information for these purposes. For more information see: www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/index.html.

Help with public health and safety issues

- We can share health information about you for certain situations such as:
 - Preventing disease
 - Helping with product recalls
 - Reporting adverse reactions to medications
 - Reporting suspected abuse, neglect, or domestic violence
 - Preventing or reducing a serious threat to anyone's health or safety

Do research

- We can use or share your information for health research.

Comply with the law

- We will share information about you if state or federal laws require it, including with the Department of Health and Human Services if it wants to see that we're complying with federal privacy law.

Respond to organ and tissue donation requests and work with a medical examiner or funeral director

- We can share health information about you with organ procurement organizations.
- We can share health information with a coroner, medical examiner, or funeral director when an individual dies.

Address workers' compensation, law enforcement, and other government requests

- We can use or share health information about you:
 - For workers' compensation claims
 - For law enforcement purposes or with a law enforcement official
 - With health oversight agencies for activities authorized by law
 - For special government functions such as military, national security, and presidential protective services

Respond to lawsuits and legal actions

- We can share health information about you in response to a court or administrative order, or in response to a subpoena.

Our Responsibilities

- We are required by law to maintain the privacy and security of your protected health information.
- We will let you know promptly if a breach occurs that may have compromised the privacy or security of your information.
- We must follow the duties and privacy practices described in this notice and give you a copy of it.
- We will not use or share your information other than as described here unless you tell us we can in writing. If you tell us we can, you may change your mind at any time. Let us know in writing if you change your mind.

For more information see: www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/noticepp.html.

Changes to the Terms of this Notice

We can change the terms of this notice, and the changes will apply to all information we have about you. The new notice will be available upon request, on our web site, and we will mail a copy to you.

Effective Date

This notice is effective November 1, 2013.

For Further Information

Please contact the Town of Wellesley Human Resources Department, 525 Washington Street, Wellesley, MA 02482; (781) 431-1019 x2244; hr@wellesleyma.gov. The Town's website is located at www.wellesleyma.gov.

Employment Leave to Address an Abusive Situation

M.G.L. c. 149, §52E.

Employees are entitled to 15 days of leave under the new domestic violence law.

The employers' and employees' rights and responsibilities under the law are as follows:

If you are an **employee** of a covered entity, it is your responsibility to:

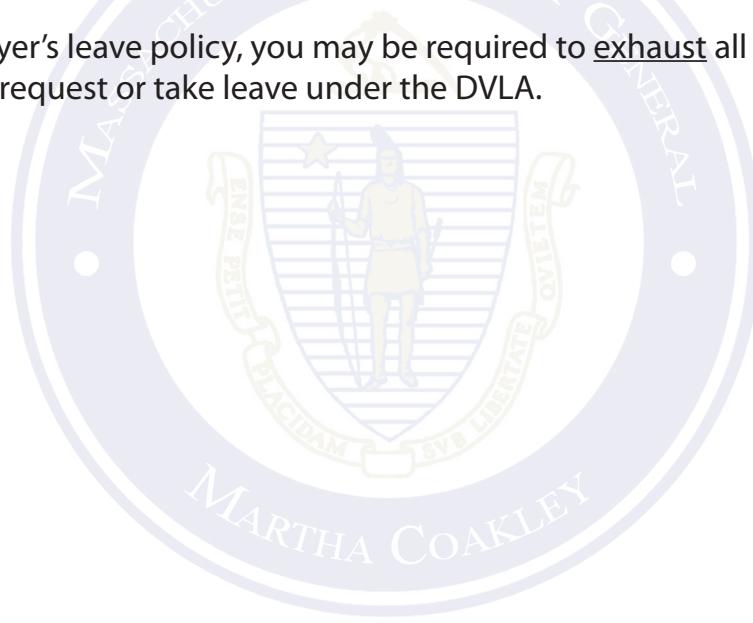
Provide advance notice to your employer in accordance with the employer's leave policy that you are requesting or you are taking leave under the DVLA, except that:

- in cases of imminent danger to your health or safety, or in cases of a threat of imminent danger to the health or safety of yourself or your family member, you must provide notice within 3 workdays that the leave was taken or being taken under the DVLA. This notice may be given to the employer by you, your family member, your counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate, or other professional who has assisted you in addressing the effects of the abusive behavior.

If required by your employer, you must provide documentation within a reasonable time evidencing that:

- You are, or you have a family member who is, a victim of abusive behavior;
- You are using the leave from work for a qualifying purpose; and
- You are not the perpetrator of the abusive behavior against your family member.

If required by your employer's leave policy, you may be required to exhaust all available vacation, sick, and personal time before you request or take leave under the DVLA.



Employment Leave to Address an Abusive Situation

M.G.L. c. 149, §52E.

Employees are entitled to 15 days of leave under the new domestic violence law.

The employers' and employees' rights and responsibilities under the law are as follows:

For purposes of this type of leave, **both employers and employees** should be aware that:

Abusive behavior is:

- Domestic violence
- Sexual assault
- Stalking
- Kidnapping

Family member is:

- Parent, step-parent, child, step-child, sibling, grandparent, or grandchild
- Married spouse
- Persons in a substantive dating or engagement relationship and who reside together
- Persons having a child in common regardless of whether they have ever married or resided together
- Persons in a guardian relationship.

A qualifying purpose is:

- To seek or obtain medical attention, counseling, victim services or legal assistance;
- To secure housing;
- To obtain a protective order from a court, appear in court or before a grand jury, meet with a district attorney or other law enforcement official;
- To attend child custody proceedings; or
- To address any other issues directly related to the abusive behavior against the employee or family member of the employee.

A qualifying document is any of the following:

- A protective order, order of equitable relief or other documentation issued by a court of competent jurisdiction as a result of abusive behavior against you or your family member.
- A document under the letterhead of the court, provider or public agency which you attended for the purposes of acquiring assistance as it relates to the abusive behavior against you or your family member.
- A police report or statement of a victim or witness provided to police, including a police incident report, documenting the abusive behavior complained of by you or your family member.
- Documentation that the perpetrator of the abusive behavior against you or your family member has: admitted to sufficient facts to support a finding of guilt of abusive behavior; or has been convicted of, or has been adjudicated a juvenile delinquent by reason of, any offense constituting abusive behavior and which is related to the abusive behavior that necessitated the leave under this section.
- Medical documentation of treatment as a result of the abusive behavior complained of by you or your family member.
- A sworn statement, signed under the penalties of perjury, provided by a counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted you or your family member in addressing the effects of the abusive behavior.
- A sworn statement signed by you under the penalties of perjury attesting that you have been or a family member has been the victim of abusive behavior.

Town of Wellesley

Information Technology Resources Policy

Rev. 3.0

November 1, 2016



1. Objective

The Town's objectives in developing this policy are to address the ethical and appropriate use of technology resources, to maintain the security of the network, and to enable Town employees to deliver better services to residents at lower costs. This document formalizes the policy for all Town of Wellesley (Town) employees on the use of **information technology resources**; (ITRs), including computers, printers and other peripherals, programs, data, e-mail, and the Internet.

Use of Town ITRs by any employee shall constitute acceptance of the terms of this policy and any such additional policies. It is the responsibility of any person using Town ITRs to read, understand, and follow this policy. Failure to observe this policy may subject individuals to disciplinary action, including termination of employment. In addition to this policy, individual departments may choose to issue supplemental policies governing their use of Town ITRs. Any person with questions regarding the application or meaning of this policy should seek clarification from the Information Technology Department (ITD).

For purposes of the ITR Policy, "employees" includes all municipal employees as defined in M.G.L. c.268A, §1.

2. Purpose

This Policy is intended to provide guidance on the acceptable use and prohibited uses of the Town of Wellesley's ITRs. It does not intend to identify all authorized or prohibited activities by users; all existing state, federal and local laws and Town policies apply.

3. Acceptable Uses

Employees are encouraged to use ITRs to the fullest extent in pursuit of the Town's goals and objectives. While ITRs are provided for Town business only, incidental personal use is permitted, providing it does not conflict with the security guidelines of this policy, interfere with workstation or network performance, or result in employee productivity loss.

4. Unacceptable Uses

It is unacceptable for any person to use Town ITRs:

- to perpetrate an illegal act, including violation of any criminal or civil laws or regulations, whether state or federal
- for political purpose
- for commercial purpose
- to send threatening or harassing messages, whether sexual or otherwise
- to access or share sexually explicit, obscene, or otherwise inappropriate materials to infringe any intellectual property rights
- to gain, or attempt to gain, unauthorized access to any computer or network
- for any use that causes interference with or disruption of Town ITRs, including propagation of computer viruses or other harmful programs
- to intercept communications intended for other persons
- to misrepresent either the Town or a person's role at the Town

- to distribute chain letters
- to libel or otherwise defame any person
- to access online gambling sites

Unless such use is reasonably related to an employee's job, and permission has been granted by the IT Director or Network Manager, it is unacceptable for any person to use Town ITRs:

- to access social media sites
- to access external email/webmail services
- to access external networks or Internet-based file sharing services

5. Data Confidentiality

In the course of performing their jobs, employees often have access to confidential or proprietary information, such as personal data about identifiable individuals or commercial information about business organizations. Under no circumstances is it permissible for employees to acquire access to confidential data unless such access is required by their jobs. Under no circumstances may employees disseminate any confidential information that they have access to, unless such dissemination is required by their jobs. Additional direction on an employee's responsibility to safeguard personal information is detailed in the Town's *Written Information Security Policy*.

6. Software / Copyright Protection

Computer programs are valuable intellectual property. Software publishers are entitled to protect their property rights from infringement. In addition to software, legal protections can also exist for any information published on the Internet, such as the text and graphics on a web site. As such, employees must respect the rights of intellectual property owners, and exercise care and judgment when copying or distributing computer programs or information that could reasonably be expected to be copyrighted.

7. User Accounts

Employees may be issued a user account for secure access to the network and enterprise applications. An appropriate level of access will be determined by ITD, in consultation with the user's senior management. All network user accounts require strong passwords, to be created by the user according to rules promulgated by ITD, and changed at least once every six months. Users must not share their passwords with anyone else, must keep their passwords in a secure location, and should promptly notify ITD personnel if they suspect their passwords have been compromised. In addition, users who will be leave their PCs unattended for must either log off the network, lock their computer with a password-protected screen saver, or otherwise secure physical access to the computer.

8. Computer Viruses / Malware

ITD implements a number of industry standard measures to ensure the security of the Town's local area network (blocked internet sites, filtering of incoming / outgoing e-mail, antivirus software, etc.), but employees should still exercise reasonable precautions in order to prevent the introduction of computer viruses or other malware. Users who are identified as being a source of unauthorized intrusion may be disconnected from the network. Re-establishing connection will be at the discretion of ITD in consultation with the user's senior management.

9. E-mail

Unless not required by job function, all employees will be provided with an @wellesleyma.gov email address. All e-mail created or received by a Town employee is a public record and is subject to public access and disclosure through the provisions of the MA Public Records Law, MGL c.66 §10. Employees should be aware that all e-mail sent/received through an @wellesleyma.gov account is permanently archived by ITD. Private email (i.e. a commercial email system or service, separate and apart from the Town's primary email system) is not an authorized or official method of communicating business related information.

10. No Expectation of Privacy

Town ITRs are the property of the Town of Wellesley and are to be used in conformance with this policy. The Town retains control over the efficient and proper operation of the workplace, reserves the right to monitor, access, review, copy, store, or delete any electronic communications without prior notice, including personal messages, from any system for any purpose and to disclose them to others, as it deems appropriate. Employees should be aware that ITD, in order to ensure proper network operations, routinely monitors network traffic. Use of Town ITRs constitutes express consent for the Town to monitor and/or inspect any data that users create or receive, any messages they send or receive, and any web sites that they access.

11. Bring Your Own Device (BYOD)

ITD permits employees to access Town ITRs on personally owned smart phones, tablets, and/or PCs through its "Bring Your Own Device" (BYOD) program. The program is designed to offer employees a choice of personal preference and better integration of their work and personal lives. It is a cost-effective way for the Town to enable employees the flexibility to work in a way that optimizes their productivity. Current use cases for personal device use include email and calendars, virtual desktop (e.g. Citrix), cloud document access, and web-enabled applications.

Use of a personal device is not mandatory, and employees will not be reimbursed (financially, or otherwise) for the business use of a personal voice/data service plan. The Town of Wellesley is not responsible for any loss or theft of, damage to, or failure in the device that may result from use of a personal device for business purposes.

While accessing Town ITRs from personal devices, employees:

- will not download or transfer sensitive business data. Sensitive business data is defined as documents or data whose loss, misuse, or unauthorized access can adversely affect the privacy or welfare of an individual (personally identifiable information), the outcome of a charge/complaint/case, proprietary information, or Town financial operations
- will delete any sensitive business data that may be inadvertently downloaded and stored on the personal device through the normal process of viewing e-mail attachments
- will protect their device with a (minimum) four-digit passcode, and will set their device to lock automatically after a maximum of 5 minutes of inactivity
- will maintain the original personal device operating system and keep it current with security patches and updates, as released by the manufacturer
- will not "jail break" the personal device (installing software that allows the user to bypass standard built-in security features and controls)
- agree to not share the personal device and network accounts with other individuals or family members
- will not connect the personal device to the employee's work PC via (direct or wirelessly) for file transfer or backup purposes, without express permission of the IT Director or Network Manager
- will immediately notify ITD if the personal device is lost or stolen, at which point ITD will change the employee's network password and (in extreme cases) retains the authority to remotely wipe the device

Due to the variety of mobile device types and configurations, ITD is only able to provide limited support for connecting a personal device to Town ITRs, and for use of device software/applications. ITD personnel respect the privacy of your personal device and will only request access to the device to assist with implementation of security controls, or to respond to legitimate discovery requests arising out of administrative, civil, or criminal proceedings.

12. Acknowledgement

ITD shall review this policy at least annually, and may propose changes to the Board of Selectmen at any time. Notice of any changes will be provided to all employees.

Town of Wellesley

Written Information Security Policy

Rev. 1.0

November 1, 2016



1. Objective

The Town's objective in developing and implementing this comprehensive written information security policy ("WISP") is to create effective administrative, technical and physical safeguards for the protection of personal information of residents of the Commonwealth of Massachusetts. This WISP sets forth our procedures for evaluating and addressing our electronic and physical methods of accessing, collecting, storing, using, transmitting, and protecting personal information.

For purposes of the WISP, "**personal information**" is defined as: "a Massachusetts resident's first name and last name or first initial and last name in combination with any one or more of the following data elements that relate to such resident: (a) Social Security number; (b) driver's license number or state-issued identification card number; or (c) financial account number, or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to a resident's financial account; provided, however, that "Personal information" shall not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public."

For purposes of the WISP, "employees" includes all municipal employees as defined in M.G.L. c.268A, §1.

2. Purpose

The purposes of the WISP are to ensure the security and confidentiality of personal information; protect against anticipated threats or hazards to the security or integrity of such information; and to protect against unauthorized access to or use of such information that creates a substantial risk of identity theft or fraud.

3. Scope

In formulating and implementing the Policy, the Town has addressed and incorporated the following protocols:

- Identified reasonably foreseeable internal and external risks to the security, confidentiality, and/or integrity of any electronic, paper or other records containing personal information;
- Assessed the likelihood and potential damage of these threats, taking into consideration the sensitivity of the personal information;
- Evaluated the sufficiency of existing policies, procedures, customer information systems, and other safeguards in place to control risks;
- Designed and implemented a WISP that puts safeguards in place to minimize those risks; and,
- Implemented regular monitoring of the effectiveness of those safeguards.

4. Data Security Compliance Officer

The Town has designated the Information Technology Director to implement, supervise and maintain the WISP. This designated employee (the "Data Security Compliance Officer") will be responsible for the following:

- Initial implementation of the WISP;
- Providing ongoing training as appropriate for all Town employees, including temporary and contract employees, who have access to personal information, on the elements of the WISP;
- Regular testing of the WISP's safeguards;

- Evaluating the ability of third-party service providers to implement and maintain appropriate security measures for the personal information to which we have permitted them access; and requiring such third party service providers by contract to implement and maintain appropriate security measures;
- Reviewing the security measures in the WISP at least annually, or whenever there is a material change in our business practices or applicable federal and state regulations that may implicate the security or integrity of records containing personal information;
- Consulting and apprising the Executive Director and Board of Selectmen of all reviews, including any recommendations for improved security arising from the review.

5. Internal Risk Mitigation Policies

To guard against internal risks to the security, confidentiality, and/or integrity of any electronic, paper or other records containing personal information, and evaluating and improving, where necessary, the effectiveness of the current safeguards for limiting such risks, the following measures are mandatory and are effective immediately:

- We will only collect personal information that is necessary to accomplish our legitimate transactions or to comply with any and all federal, state or local regulations.
- Access to records containing personal information shall be limited to those employees who have a legitimate need to access said records, and only for this legitimate purpose.
- A copy of the WISP is to be distributed to each current employee and to each new employee on the beginning date of their employment. It shall be the employee's responsibility for acknowledging in writing, by signing the attached sheet, that he/she has received a copy of the WISP and will abide by its provisions.
- Each department shall develop rules to ensure that reasonable restrictions for physical access to records containing personal information are in place; and each department must store such records and data in locked facilities, secure storage areas, or locked containers.
- A terminated employee's physical and electronic access to records containing personal information shall be restricted at the time of termination. This shall include remote electronic access to personal records, voicemail, internet, and email access. All keys, keycards, access devices and the like shall be surrendered at the time of termination.
- Terminated employees must return all records containing personal data, in any form, in their possession at the time of termination. This includes all data stored on any portable device and any device owned directly by the terminated employee.
- Access to electronically stored personal information is restricted to approved and active user accounts.
- Paper or electronic records (including records stored on hard drives or other electronic media) containing personal information shall be disposed of only in a manner that complies with M.G.L. c.93I.
- Employees are required to report suspicious or unauthorized use of personal information to a supervisor or the Data Security Compliance Officer.
- Whenever there is an incident that requires notification pursuant M.G.L. c.93H, the Data Security Compliance Officer shall host a mandatory post-incident review of events and actions taken, if any, in order to determine how to alter security practices to better safeguard personal information.
- Disciplinary action will be applicable to violations of the WISP, irrespective of whether personal data was actually accessed or used without authorization.

6. External Risk Mitigation Policies

To guard against external risks to the security, confidentiality, and/or integrity of any electronic, paper or other records containing personal information, and evaluating and improving, where necessary, the effectiveness of the current safeguards for limiting such risks, the following measures are mandatory and shall be implemented immediately:

- Firewall protection, operating system security patches, and all software products shall be reasonably up-to-date and installed on any computer that stores or processes personal information.
- All system security software including, anti-virus, anti-malware, and internet security shall be reasonably up-to-date and installed on any computer that stores or processes personal information.
- Personal information shall not be removed from Town facilities in electronic or written form absent legitimate need and use of reasonable security measures, as described in this policy.

- To the extent technically feasible, all personal information stored on laptops or other portable devices must be encrypted, as must all records and files transmitted across public networks or wirelessly, to the extent technically feasible. Encryption means the transformation of data into a form in which meaning cannot be assigned without the use of a confidential process or key, unless further defined by law.
- The Town's *Information Technology Resources Policy* shall contain secure user authentication protocols that:
 - Control user ID and other identifiers;
 - Assign passwords in a manner that conforms to accepted security standards;
 - Control passwords to ensure that password information is secure.

7. Breach of Data Security Protocol

Should any employee know of a security breach at any of our facilities, or that any unencrypted personal information has been lost or stolen or accessed without authorization, or that encrypted personal information along with the access code or security key has been acquired by an unauthorized person or for an unauthorized purpose, the following protocol is to be followed:

- Employees are to notify the Data Security Compliance Officer in the event of a known or suspected security breach or unauthorized use of personal information.
- The Data Security Compliance Officer shall be responsible for drafting a security breach notification to be provided to the Massachusetts Office of Consumer Affairs and Business Regulation and the Massachusetts Attorney General's office. The security breach notification shall include the following:
 - A detailed description of the nature and circumstances of the security breach or unauthorized acquisition or use of personal information;
 - The number of Massachusetts residents affected at the time the notification is submitted;
 - The steps already taken relative to the incident;
 - Any steps intended to be taken relative to the incident subsequent to the filing of the notification; and
 - Information regarding whether law enforcement officials are engaged in investigating the incident.

8. Acknowledgement

The Data Security Compliance Officer shall review this Policy at least annually, and may propose changes to the Board of Selectmen at any time. Notice of any changes will be provided to all employees.



Town of Wellesley Employee Assistance Program

The Human Relations Service, Inc.
11 Chapel Place
Wellesley, MA 02481
(781) 235-4950

What is an Employee Assistance?

A program to help staff with the stresses of life and work – including personal and family issues, drug or alcohol problems, and job-related tensions. It offers prevention and intervention to reduce these stresses and improve coping skills.

The Town Employee Assistance Program

The EAP provides counseling, consultation, and education to employees. The Town has contracted with The Human Relations Services, Inc. to provide these services.

The Human Relations Services

HRS is a private, non-profit agency in Wellesley Hills. It has served local residents since 1948 and Town employees since 1987.

Counseling

Each employee is entitled to up to ten free, confidential counseling visits. Family members may also be seen within the ten visits. Employees may use their own resources and health insurance for further counseling.

Consultation

HRS offers consultation about management, leadership, and personal issues to supervisors, individually and in groups. Consultation is also offered to staff members about personnel and other issues.

Education

Presentations on topics related to personal health, family living and work are offered during the work day and are open to all staff. They provide information on a range of issues and help with common stresses.

Staffing

The Employee Assistance Program is staffed by a team of specialists from HRS and is directed by Allan Wyatt, Psy. D.

Scheduling

Appointments are scheduled promptly – no waiting list – and are available before, during and after work. Crisis coverage is available for emergency situations. To find out more or to arrange an appointment, call Dr. Wyatt at (781) 235-4950.

Location

Appointments may be scheduled on-site or at HRS, conveniently and privately located at 11 Chapel Place, Route 16 at Route 9, behind the Hills Congregational Church.



Summary of the Conflict of Interest Law for Municipal Employees

This summary of the conflict of interest law, General Laws chapter 268A, is intended to help municipal employees understand how that law applies to them. This summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation. Municipal employees can obtain free confidential advice about the conflict of interest law from the Commission's Legal Division at our website, phone number, and address above. Municipal counsel may also provide advice.

The conflict of interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service, as described below. The sections referenced below are sections of G.L. c. 268A.

When the Commission determines that the conflict of interest law has been violated, it can impose a civil penalty of up to \$10,000 (\$25,000 for bribery cases) for each violation. In addition, the Commission can order the violator to repay any economic advantage he gained by the violation, and to make restitution to injured third parties. Violations of the conflict of interest law can also be prosecuted criminally.

I. Are you a municipal employee for conflict of interest law purposes?

You do not have to be a full-time, paid municipal employee to be considered a municipal employee for conflict of interest purposes. Anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full- and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law. An employee of a private firm can also be a municipal employee, if the private firm has a contract with the city or town and the employee is a "key employee" under the contract, meaning the town has specifically contracted for her services. The law also covers private parties who engage in impermissible dealings with municipal employees, such as offering bribes or illegal gifts.

II. On-the-job restrictions.

(a) Bribes. Asking for and taking bribes is prohibited. (See Section 2)

A bribe is anything of value corruptly received by a municipal employee in exchange for the employee being influenced in his official actions. Giving, offering, receiving, or asking for a bribe is illegal.

Bribes are more serious than illegal gifts because they involve corrupt intent. In other words, the municipal employee intends to sell his office by agreeing to do or not do some official act, and the giver intends to influence him to do so. Bribes of any value are illegal.

(b) Gifts and gratuities. Asking for or accepting a gift because of your official position, or because of something you can do or have done in your official position, is prohibited. (See Sections 3, 23(b)(2), and 26)

Municipal employees may not accept gifts and gratuities valued at \$50 or more given to influence their official actions or because of their official position. Accepting a gift intended to reward past official action or to bring about future official action is illegal, as is giving such gifts. Accepting a gift given to you because of the municipal position you hold is also illegal. Meals, entertainment event tickets, golf, gift baskets, and payment of travel expenses can all be illegal gifts if given in connection with official action or position, as can anything worth \$50 or more. A number of smaller gifts together worth \$50 or more may also violate these sections.

Example of violation: A town administrator accepts reduced rental payments from developers.

Example of violation: A developer offers a ski trip to a school district employee who oversees the developer's work for the school district.

Regulatory exemptions. There are situations in which a municipal employee's receipt of a gift does not present a genuine risk of a conflict of interest, and may in fact advance the public interest. The Commission has created exemptions permitting giving and receiving gifts in these situations. One commonly used exemption permits municipal employees to accept payment of travel-related expenses when doing so advances a public purpose. Another commonly used exemption permits municipal employees to accept payment of costs involved in attendance at educational and training programs. Other exemptions are listed on the Commission's website.

Example where there is no violation: A fire truck manufacturer offers to pay the travel expenses of a fire chief to a trade show where the chief can examine various kinds of fire-fighting equipment that the town may purchase. The chief fills out a disclosure form and obtains prior approval from his appointing authority.

Example where there is no violation: A town treasurer attends a two-day annual school featuring multiple substantive seminars on issues relevant to treasurers. The annual school is paid for in part by banks that do business with town treasurers. The treasurer is only required to make a disclosure if one of the sponsoring banks has official business before her in the six months before or after the annual school.

(c) Misuse of position. Using your official position to get something you are not entitled to, or to get someone else something they are not entitled to, is prohibited. Causing someone else to do these things is also prohibited. (See Sections 23(b)(2) and 26)

A municipal employee may not use her official position to get something worth \$50 or more that would not be properly available to other similarly situated individuals. Similarly, a municipal employee may not use her official position to get something worth \$50 or more for someone else that would not be properly available to other similarly situated individuals. Causing someone else to do these things is also prohibited.

Example of violation: A full-time town employee writes a novel on work time, using her office computer, and directing her secretary to proofread the draft.

Example of violation: A city councilor directs subordinates to drive the councilor's wife to and from the grocery store.

Example of violation: A mayor avoids a speeding ticket by asking the police officer who stops him, "Do you know who I am?" and showing his municipal I.D.

(d) Self-dealing and nepotism. Participating as a municipal employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited. (See Section 19)

A municipal employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest. He also may not participate in any particular matter in which a prospective employer, or a business organization of which he is a director, officer, trustee, or employee has a financial interest. Participation includes discussing as well as voting on a matter, and delegating a matter to someone else.

A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out. If you, your immediate family, your business, or your employer have or has a financial interest in a matter, you may not participate. The financial interest must be direct and immediate or reasonably foreseeable to create a conflict. Financial interests which are remote, speculative or not sufficiently identifiable do not create conflicts.

Example of violation: A school committee member's wife is a teacher in the town's public schools. The school committee member votes on the budget line item for teachers' salaries.

Example of violation: A member of a town affordable housing committee is also the director of a non-profit housing development corporation. The non-profit makes an application to the committee, and the member/director participates in the discussion.

Example: A planning board member lives next door to property where a developer plans to construct a new building. Because the planning board member owns abutting property, he is presumed to have a financial interest in the matter. He cannot participate unless he provides the State Ethics Commission with an opinion from a qualified independent appraiser that the new construction will not affect his financial interest.

In many cases, where not otherwise required to participate, a municipal employee may comply with the law by simply not participating in the particular matter in which she has a financial interest. She need not give a reason for not participating.

There are several exemptions to this section of the law. An appointed municipal employee may file a written disclosure about the financial interest with his appointing authority, and seek permission to participate notwithstanding the conflict. The appointing authority may grant written permission if she determines that the financial interest in question is not so substantial that it is likely to affect the integrity of his services to the municipality. Participating without disclosing the financial interest is a violation. Elected employees cannot use the disclosure procedure because they have no appointing authority.

Example where there is no violation: An appointed member of the town zoning advisory committee, which will review and recommend changes to the town's by-laws with regard to a commercial district, is a partner at a company that owns commercial property in the district. Prior to participating in any committee discussions, the member files a disclosure with the zoning board of appeals that appointed him to his position, and that board gives him a written determination authorizing his participation, despite his company's financial interest. There is no violation.

There is also an exemption for both appointed and elected employees where the employee's task is to address a matter of general policy and the employee's financial interest is shared with a substantial portion (generally 10% or more) of the town's population, such as, for instance, a financial interest in real estate tax rates or municipal utility rates.

Regulatory exemptions. In addition to the statutory exemptions just mentioned, the Commission has created several regulatory exemptions permitting municipal employees to participate in particular matters notwithstanding the presence of a financial interest in certain very specific situations when permitting them to do so advances a public purpose. There is an exemption permitting school committee members to participate in setting school fees that will affect their own children if they make a prior written disclosure. There is an exemption permitting town clerks to perform election-related functions even when they, or their immediate family members, are on the ballot, because clerks' election-related functions are extensively regulated by other laws. There is also an exemption permitting a person serving as a member of a municipal board pursuant to a legal requirement that the board have members with a specified affiliation to participate fully in determinations of general policy by the board, even if the entity with which he is affiliated has a financial interest in the matter. Other exemptions are listed in the Commission's regulations, available on the Commission's website.

Example where there is no violation: A municipal Shellfish Advisory Board has been created to provide advice to the Board of Selectmen on policy issues related to shellfishing. The Advisory Board is required to have members who are currently commercial fishermen. A board member who is a commercial fisherman may participate in determinations of general policy in which he has a financial interest common to all commercial fishermen, but may not participate in determinations in which he alone has a financial interest, such as the extension of his own individual permits or leases.

(e) False claims. Presenting a false claim to your employer for a payment or benefit is prohibited, and causing someone else to do so is also prohibited. (See Sections 23(b)(4) and 26)

A municipal employee may not present a false or fraudulent claim to his employer for any payment or benefit worth \$50 or more, or cause another person to do so.

Example of violation : A public works director directs his secretary to fill out time sheets to show him as present at work on days when he was skiing.

(f) Appearance of conflict. Acting in a manner that would make a reasonable person think you can be improperly influenced is prohibited. (See Section 23(b)(3))

A municipal employee may not act in a manner that would cause a reasonable person to think that she would show favor toward someone or that she can be improperly influenced. Section 23(b)(3) requires a municipal employee to consider whether her relationships and affiliations could prevent her from acting fairly and objectively when she performs her duties for a city or town. If she cannot be fair and objective because of a relationship or affiliation, she should not perform her duties. However, a municipal employee, whether elected or appointed, can avoid violating this provision by making a public disclosure of the facts. An appointed employee must make the disclosure in writing to his appointing official.

Example where there is no violation : A developer who is the cousin of the chair of the conservation commission has filed an application with the commission. A reasonable person could conclude that the chair might favor her cousin. The chair files a written disclosure with her appointing authority explaining her relationship with her cousin prior to the meeting at which the application will be considered. There is no violation of Sec. 23(b)(3).

(g) Confidential information. Improperly disclosing or personally using confidential information obtained through your job is prohibited. (See Section 23(c))

Municipal employees may not improperly disclose confidential information, or make personal use of non-public information they acquired in the course of their official duties to further their personal interests.

III. After-hours restrictions.

(a) Taking a second paid job that conflicts with the duties of your municipal job is prohibited. (See Section 23(b)(1))

A municipal employee may not accept other paid employment if the responsibilities of the second job are incompatible with his or her municipal job.

Example: A police officer may not work as a paid private security guard in the town where he serves because the demands of his private employment would conflict with his duties as a police officer.

(b) Divided loyalties. Receiving pay from anyone other than the city or town to work on a matter involving the city or town is prohibited. Acting as agent or attorney for anyone other than the city or town in a matter involving the city or town is also prohibited whether or not you are paid. (See Sec. 17)

Because cities and towns are entitled to the undivided loyalty of their employees, a municipal employee may not be paid by other people and organizations in relation to a matter if the city or town has an interest in the matter. In addition, a municipal employee may not act on behalf of other people and organizations or act as an attorney for other people and organizations in which the town has an interest. Acting as agent includes contacting the municipality in person, by phone, or in writing; acting as a liaison; providing documents to the city or town; and serving as spokesman.

A municipal employee may always represent his own personal interests, even before his own municipal agency or board, on the same terms and conditions that other similarly situated members of the public would be allowed to do so. A municipal employee may also apply for building and related permits on behalf of someone else and be paid for doing so, unless he works for the permitting agency, or an agency which regulates the permitting agency.

Example of violation: A full-time health agent submits a septic system plan that she has prepared for a private client to the town's board of health.

Example of violation: A planning board member represents a private client before the board of selectmen on a request that town meeting consider rezoning the client's property.

While many municipal employees earn their livelihood in municipal jobs, some municipal employees volunteer their time to provide services to the town or receive small stipends. Others, such as a private attorney who provides legal services to a town as needed, may serve in a position in which they may have other personal or private employment during normal working hours. In recognition of the need not to unduly restrict the ability of town volunteers and part-time employees to earn a living, the law is less restrictive for "special" municipal employees than for other municipal employees.

The status of "special" municipal employee has to be assigned to a municipal position by vote of the board of selectmen, city council, or similar body. A position is eligible to be designated as "special" if it is unpaid, or if it is part-time and the employee is allowed to have another job during normal working hours, or if the employee was not paid for working more than 800 hours during the preceding 365 days. It is the position that is designated as "special" and not the person or persons holding the position. Selectmen in towns of 10,000 or fewer are automatically "special"; selectman in larger towns cannot be "specials."

If a municipal position has been designated as "special," an employee holding that position may be paid by others, act on behalf of others, and act as attorney for others with respect to matters before municipal boards other than his own, provided that he has not officially participated in the matter, and the matter is not now, and has not within the past year been, under his official responsibility.

Example: A school committee member who has been designated as a special municipal employee appears before the board of health on behalf of a client of his private law practice, on a matter that he has not participated in or had responsibility for as a school committee member. There is no conflict. However, he may not appear before the school committee, or the school department, on behalf of a client because he has official responsibility for any matter that comes before the school committee. This is still the case even if he has recused himself from participating in the matter in his official capacity.

Example: A member who sits as an alternate on the conservation commission is a special municipal employee. Under town by-laws, he only has official responsibility for matters assigned to him. He may represent a resident who wants to file an application with the conservation commission as long as the matter is not assigned to him and he will not participate in it.

(c) Inside track. Being paid by your city or town, directly or indirectly, under some second arrangement in addition to your job is prohibited, unless an exemption applies. (See Section 20)

A municipal employee generally may not have a financial interest in a municipal contract, including a second municipal job. A municipal employee is also generally prohibited from having an indirect financial interest in a contract that the city or town has with someone else. This provision is intended to prevent municipal employees from having an "inside track" to further financial opportunities.

Example of violation: Legal counsel to the town housing authority becomes the acting executive director of the authority, and is paid in both positions.

Example of violation: A selectman buys a surplus truck from the town DPW.

Example of violation: A full-time secretary for the board of health wants to have a second paid job working part-time for the town library. She will violate Section 20 unless she can meet the requirements of an exemption.

Example of violation: A city councilor wants to work for a non-profit that receives funding under a contract with her city. Unless she can satisfy the requirements of an exemption under Section 20, she cannot take the job.

There are numerous exemptions. A municipal employee may hold multiple unpaid or elected positions. Some exemptions apply only to special municipal employees. Specific exemptions may cover serving as an unpaid volunteer in a second town position, housing-related benefits, public safety positions, certain elected positions, small towns, and other specific situations. Please call the Ethics Commission's Legal Division for advice about a specific situation.

IV. After you leave municipal employment. (See Section 18)

(a) Forever ban. After you leave your municipal job, you may never work for anyone other than the municipality on a matter that you worked on as a municipal employee.

If you participated in a matter as a municipal employee, you cannot ever be paid to work on that same matter for anyone other than the municipality, nor may you act for someone else, whether paid or not. The purpose of this restriction is to bar former employees from selling to private interests their familiarity with the facts of particular matters that are of continuing concern to their former municipal employer. The restriction does not prohibit former municipal employees from using the expertise acquired in government service in their subsequent private activities.

Example of violation: A former school department employee works for a contractor under a contract that she helped to draft and oversee for the school department.

(b) One year cooling-off period. For one year after you leave your municipal job you may not participate in any matter over which you had official responsibility during your last two years of public service.

Former municipal employees are barred for one year after they leave municipal employment from personally appearing before any agency of the municipality in connection with matters that were under their authority in their prior municipal positions during the two years before they left.

Example: An assistant town manager negotiates a three-year contract with a company. The town manager who supervised the assistant, and had official responsibility for the contract but did not participate in negotiating it, leaves her job to work for the company to which the contract was awarded. The former manager may not call or write the town in connection with the company's work on the contract for one year after leaving the town.

A former municipal employee who participated as such in general legislation on expanded gaming and related matters may not become an officer or employee of, or acquire a financial interest in, an applicant for a gaming license, or a gaming licensee, for one year after his public employment ceases.

(c) Partners. Your partners will be subject to restrictions while you serve as a municipal employee and after your municipal service ends.

Partners of municipal employees and former municipal employees are also subject to restrictions under the conflict of interest law. If a municipal employee participated in a matter, or if he has official responsibility for a matter, then his partner may not act on behalf of anyone other than the municipality or provide services as an attorney to anyone but the city or town in relation to the matter.

Example: While serving on a city's historic district commission, an architect reviewed an application to get landmark status for a building. His partners at his architecture firm may not prepare and sign plans for the owner of the building or otherwise act on the owner's behalf in relation to the application for landmark status. In addition, because the architect has official responsibility as a commissioner for every matter that comes before the commission, his partners may not communicate with the commission or otherwise act on behalf of any client on any matter that comes before the commission during the time that the architect serves on the commission.

Example: A former town counsel joins a law firm as a partner. Because she litigated a lawsuit for the town, her new partners cannot represent any private clients in the lawsuit for one year after her job with the town ended.

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This summary is not intended to be legal advice and, because it is a summary, it does not mention every provision of the conflict law that may apply in a particular situation. Our website, <http://www.mass.gov/ethics> contains further information about how the law applies in many situations. You can also contact the Commission's Legal Division via our website, by telephone, or by letter. Our contact information is at the top of this document.

Version 6: Revised May 10, 2013



Municipal Policies and Procedures

This is a selection of important provisions from the Town of Wellesley's Personnel Guidebook. For a complete copy, please contact Human Resources, or go to the Town of Wellesley's website at www.WellesleyMA.gov. Please note that not all sections of this booklet may apply to members of a collective bargaining unit.

Equal Opportunity Employment Commitment

The policy of the Town of Wellesley is to achieve equal opportunity in employment and selection:

- By the recruitment and consideration of applicants without regard to factors unrelated to the ability to perform the requirements of the job such as race, creed, color, sex, age, national origin, disability, veterans status, or sexual orientation.
- By the employment of individuals who meet the physical and mental requirements, with reasonable accommodation, and who have the education, training, and experience, established and necessary for the performance of the job, without regard to race, creed, color, sex, age, national origin, disability, veterans status, sexual orientation, or other factors unrelated to the ability to perform the requirements of the job.
- By taking such affirmative action as may be necessary to identify any conditions or employment practices which may have contributed to underrepresentation of protected classes in the workforce and to correct any such conditions including, but not limited to, the pursuit of the hiring goals established in the Affirmative Action Plan.
- By the retention, promotion, and termination of employees on a non-discriminatory basis, and by non-discrimination in compensation and in terms, conditions, and privileges of employment.

Employment Categories

The Town of Wellesley clarifies the definitions of employment classifications so that employees understand their employment status and benefit eligibility. In compliance with the Fair Labor Standards Act, each employee is designated as either **Nonexempt** or **Exempt** from Federal and State wage and hour laws. **Nonexempt** employees are entitled to overtime pay under the specific provisions of Federal and State laws. **Exempt** employees are excluded from specific provisions of Federal and State wage and hour laws.

In addition to the above categories, each employee belongs to one other employment category:

Department Head is an employee responsible for the administration of a Town function or activity under the direction of an elected or appointed Board, Committee, or Commission.

Permanent employees are hired to work for an indefinite period.

Temporary employees are hired to work a specified period, usually less than six (6) months.

Full time employees are hired to work the regularly scheduled hours of work each work day, thirty-five (35) hours or more per week.

Part time employees are hired to work fewer than thirty-five (35) hours per week.

Drugs and Alcohol

The Selectmen of the Town of Wellesley reaffirm its policy prohibiting the use or possession of alcoholic beverages, illicit drugs and/or controlled substances by employees while performing their job.

Use, sale, possession, or being under the influence of intoxicating beverages or controlled substances while on duty is considered cause for discharge.

The Drug-Free Work Place Act of 1988 recognizes the impact substance abuse has in the workforce and the Town of Wellesley firmly supports the intention behind this act. Further, the Omnibus Transportation Employee Testing Act of 1991 requires alcohol and drug testing of safety-sensitive transportation employees, i.e., employees who are required to have a commercial driver's license. This law requires employers "to conduct pre-employment, reasonable suspicion, random, and post-accident testing of operators of commercial motor vehicles for use of alcohol or a controlled substance."

While the Town of Wellesley has no intention of intruding into the private lives of its employees, the Town does expect employees to report for work in condition to perform their duties. The Town recognizes that employee off-the-job as well as on-the-job involvement with drugs and alcohol can have an impact on the work place and on our ability to accomplish our goal of an alcohol and drug-free environment.

For a more detailed explanation of the implementation of this policy, please refer to Personnel Policy #4 "Drug and Alcohol Testing Policy for Employees in Positions Requiring a Commercial Driver's License (CDL) Which are Defined as Safety-Sensitive" located in the Appendix of this employee handbook.

Holidays

All permanent full-time employees shall receive time off without loss of pay on the following State legal holidays: New Year's Day, Martin Luther King Day, Washington's Birthday, Patriots' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day and Christmas Day. In the event such holidays fall on Sunday, they shall be deemed to occur on Monday; and if they fall on Saturday, they shall be deemed to occur on Friday. Such employees shall receive time off without loss of pay for one-half day on the last working day immediately preceding Christmas Day and New Year's Day. In the event that Town business does not permit granting any or all half days on the last working day preceding these holidays, the one-half day off shall be granted within a three month period at the discretion of the Department Head and subject to the needs of Town business. Employees required to work on the above holidays shall receive compensatory time off.

All permanent part-time employees who regularly work twenty (20) or more hours per week and who would normally be scheduled to work on the day a holiday is celebrated shall receive time off with pay for such holiday.

Vacation

1. The following annual vacations with pay shall be granted to all permanent employees, who are on the payroll July 1 and who complete the following period of full-time continuous employment during the vacation year (July 1 through June 30):

<u>Service Period</u>	<u>Vacation</u>
six months	one week
one year anniversary	remaining annual crediting
one yr. anniv.-June 30th	prorated (see E.1a)
July 1st to year three	two weeks
three years	three weeks
ten years	four weeks
twenty years	five weeks

1a. New employees who complete more than one year of full time continuous service but less than 12 months full-time continuous service within the annual vacation cycle (July 1st to June 30th) will earn a proration of vacation days based on the number of additional months worked in that cycle. This proration will be equal to one-twelfth (1/12) of an employee's annual vacation benefits for each 30 calendar days of service beyond the first year anniversary of employment and will be credited on June 30th. Thereafter, employees will be placed into the annual cycle for purposes of vacation crediting.

1b. Permanent part-time employees regularly working twenty (20) or more per week shall be granted annual vacations with pay according to the ratio that their part-time employment bears to full-time employment. In no case shall an employee take vacation until s/he has been on the payroll six months. In the year in which an employee is first eligible for a two-week vacation, the additional week shall not be granted until such employee has completed the full term of service requirement.

2. Vacations shall be granted by the Department Head at such times as, in his/her opinion, will cause the least interference with the performance of the regular work of the Department, but taking into account the preference of the individual employee. Vacations must be taken in the 12 months following the July 1 on which they are earned and shall not accumulate from vacation year to vacation year without the approval of the Human Resources Board. The Human Resources Board may grant vacation carry over into the next vacation year due to unusual circumstances upon recommendation of the Department Head or Appointing Authority. Any vacation days approved for carry over by the Human Resources Board shall expire if not used within the year into which they are carried.

Salaries shall not be paid in lieu of vacations except in extreme emergency and with the prior approval of the Human Resources Board. If a holiday falls within the vacation period of an employee, s/he shall be granted an additional day of vacation.

3. If the employment of a person who has become entitled to an annual vacation but has not taken it is terminated for any reason s/he shall be paid for his/her accrued vacation.

If the employment of such a person is terminated by death or retirement, s/he shall also be paid for vacation benefits accrued at the rate of one twelfth (1/12) of his/her vacation benefits for each thirty (30) calendar days of service between July 1 and the date of termination. Upon the death of an employee entitled to vacation allowance, the allowance shall be paid to the person or persons to whom unpaid salary is payable.

However, based on the 7/1/95 policy of vacation proration referenced in section E.1a, those whose latest date of hire is after 7/1/94 will not be entitled to additional vacation crediting in the event of termination by death or retirement as referenced in section E.3.

4. If a former employee of the Town returns to the service of the Town and completes at least five years of continuous full-time service following such return, the amount of continuous full-time service immediately preceding the interruption of his/her work for the Town shall be added to the five or more years of current full-time service to give total service for computation of vacation. Service in the Armed Forces shall not be considered an interruption of work for the purpose of computing total service credit.

5. Full-time employees who worked for the Town on a part-time, benefit-eligible basis immediately prior to entering into their full-time position shall be eligible to have their part-time benefit-eligible service included in the calculation of their vacation eligibility by converting such part-time service to its full-time equivalent.
(added at 2010 Annual Town Meeting)

Personal Days

Permanent employees regularly scheduled to work twenty (20) or more hours per week shall be granted two (2) regular work days per fiscal year without loss of pay for the conduct of personal business. For part-time employees, the time off shall be pro-rated based on the ratio that their part-time employment bears to full-time employment. Such time off shall be granted at the discretion of the Department Head and according to the following schedule for new employees:

Hired Between	Personal Days Allowed
July 1 and December 31	2 days
January 1 and March 31	1 day
April 1 and June 30	0 days

Jury Duty Pay

Employees shall be paid the difference between their regular week's pay and the compensation they receive for jury duty, provided they report for work on each regularly scheduled working day when excused from such duty. A certificate setting forth the amount received by the employee for jury duty shall be required prior to such payment.

Length of Service Pay

Permanent full-time employees in Job Group 49 and below who have completed the following years of continuous full-time service shall be entitled to receive a length-of-service payment as follows:

<u>Years of Continuous Service</u>	<u>Amount of Payment</u>
30 or more years	\$800.00
25-29 years	\$700.00
20-24 years	\$600.00
15-19 years	\$500.00
10-14 year	\$300.00

Such payment shall be made in lump sum in the first payroll in July of each fiscal year to employees completing the requirements by June 30 of the preceding fiscal year. In the event the employment of an employee entitled to such additional payment is terminated for any reason before the July payment date, the additional pay will become due and payable on termination of employment. *(amended at 2011 Annual Town Meeting)*

Military Leave

The Town of Wellesley recognizes the patriotic service rendered by many employees who belong to military reserve units. A leave of absence, ordinarily not to exceed seventeen (17) calendar days per year, may be obtained for this purpose. If you need military leave, discuss such plans with your Department Head well in advance in order to prepare for your absence and forward a completed Personnel Action Form and a copy of the military orders to the Human Resources Department.

In addition, an employee hired prior to April 1 in any year who is absent for an ordered tour of military training duty with any organized Reserve or National Guard unit will be paid his/her regular rate of weekly compensation and his/her certified military pay for each week of such absence, as provided in the General Laws, Chapter 33, Section 59 of the Commonwealth.

Smoking Policy

Mass. General Laws Chapter 270, section 22 prohibits smoking in all workplaces, including all public buildings owned, leased or otherwise operated by municipal governments such as the Town of Wellesley, as well as in municipal vehicles. Smoking is generally allowed in outdoor areas if the outdoor space is physically separated from the enclosed workplace and smoke does not migrate into the enclosed workplace. However, School Department employees should note that smoking is not allowed anywhere on school grounds.

Bereavement Leave

Permanent full-time and part-time employees who work twenty (20) or more hours per week, in the event of a death in the immediate family, shall be granted funeral leave without loss of pay on the day of the funeral and two additional scheduled work days for bereavement. "Immediate family" is defined as spouse, mother, father, sister, brother, son, daughter, mother-in-law and father-in-law.

Funeral leave may be granted on the recommendation of the Department Head and with the approval of the Human Resources Director, subject to the ratification of the Human Resources Board, when an employee has had a family-like relationship with the deceased person even though the deceased person may not be a member of the immediate family.

Personnel Policy #1 – Recruitment and Selection

I. Purpose

To define the policy of the Town of Wellesley concerning employment recruitment and selection of individuals for non-elected positions covered by the Classification Plan established by Article 31.1 of the Town Bylaws.

II. Policy

The policy of the Town of Wellesley is to achieve equal opportunity in employment and selection:

1. By the recruitment and consideration of applicants without regard to factors unrelated to ability to perform the requirements of the job such as race, creed, color, sex, age, national origin, disability, veterans status, or sexual orientation.
2. By the employment of individuals who meet the physical and mental requirements, with reasonable accommodation, and who have the education, training and experience, established and necessary for the performance of the job, without regard to race, creed, color, sex, age, national origin, disability, veterans status, sexual orientation, or other factors unrelated to ability to perform the requirements of the job.
3. By taking such affirmative action as may be necessary to identify any conditions or employment practices which may have contributed to underrepresentation of protected classes in the workforce and to correct any such conditions including but not limited to the pursuit of the hiring goals established in Appendix A to this policy, Affirmative Action Plan.
4. By the retention, promotion and termination of employees on a non-discriminatory basis, and by non-discrimination in compensation and in terms, conditions, and privileges of employment.

III. Application

This policy shall apply to all positions covered in Article 31.1 of the Town Bylaws and to other non-elected positions on acceptance by the appropriate Board, Committee or Commission.

IV.A. Procedure for Non-Civil Service Positions

1. Boards, Committees, Commissions or Departments having a vacant non-Civil Service position to be filled must complete a Personnel Requisition Form and forward it to the Personnel Office with the necessary approvals and an updated/current job description containing the necessary qualifications. Requisition approval must include the signature of the Department Head or Chairman of the Board, Committee or Commission.
2. Upon receipt, the Human Resources Department will prepare a Job Posting Notice when appropriate for posting and action in accordance with applicable collective bargaining agreements or an Internal Position Vacancy Notice for non-union positions of 20 hours or more per week on a permanent and regular basis for application by current permanent employees.
 - a. If the appropriate supervisory personnel decide not to select any internal applicant, or if the position is not subject to posting, the Human Resources Department will recruit candidates by drafting employment ads and placing these ads in conformance with the Affirmative Action Plan. Upon application for a position, the Human Resources Department will advise applicants of openings and the minimum qualifications necessary for consideration. The Human Resources Department will inform the applicants of the pay practices, employee benefits, and general working conditions in the Town and departments, especially where openings exist.
 - b. The Human Resources Department will receive and screen all applicants and designate qualified applicants to the appropriate Department Head or Chairperson of the Board, Committee or Commission for interview based on the information in the Personnel Requisition and the updated job description. The Department Head or Chairperson will have the option to review all applications and confer with the Human Resources Department regarding minimum qualification equivalencies.

- c. The Human Resources Department will have the option to monitor and be present at interviews thus providing consistency in the selection process on a Town-wide basis.
- 3. Whenever a Board, Committee or Commission decides to engage the services of an employment agency, that agency will be informed that the Town is an Equal Opportunity Employer and will be supplied a copy of the Town's voluntary Affirmative Action Plan and the Bylaws of the Town of Wellesley by the respective Board, Committee or Commission. The employment agency will be expected to conduct itself in accordance with all applicable Federal and State employment laws.
- 4. The person having responsibility and authority for hiring shall give the Human Resources Department the name of the candidate selected for hire after which the hiring authority or the Human Resources Department, at the request of the hiring authority, will check the applicant's references. If the hiring authority performs the reference checks, the Personnel Reference Check form utilized by the Human Resources Department must be fully completed and submitted to the Human Resources Department prior to the extension of an offer of employment.
- 5. Upon receipt of favorable reference checks, the hiring authority shall complete a Personnel Action Form and forward it to the Human Resources Department with the necessary approvals. Such approval must include the signature of the Department Head or Chairperson of the Board, Committee or Commission.
- 6. Candidates whose reference checks prove satisfactory shall be sent an offer or confirmation of offer of position in writing by the Human Resources Department upon receipt of a Personnel Action Form from the hiring authority. The offer will be contingent upon the satisfactory completion of a pre-placement physical exam. The written offer shall notify the candidate of the starting date and rate of pay. In the event the preferred candidate declines the offer of employment, the Department Head or Chairperson of the Board, Committee or Commission shall be advised and the appropriate parts of the foregoing procedure repeated.
- 7. Candidates who accept positions requiring 20 hours or more per week on a regular basis, or who are so required by the U. S. Department of Transportation regulations, must satisfactorily complete a pre-placement physical examination to determine their physical ability to perform the essential job functions, with reasonable accommodations if necessary. The Human Resources Department will be responsible for scheduling this pre-placement physical which may only be scheduled after a conditional offer of employment has been made.
- 8. Upon commencement of employment, employees shall report to the Human Resources Department to complete the required Federal and State forms as well as benefit enrollment applications. This step must be completed within the first week of employment in order for the new employee to be processed for the payroll.

IV.B. Procedure for Civil Service Positions

- 1. Departments having a vacant Civil Service position to be filled will file a civil service requisition with the State Department of Personnel Administration. For purposes of public informational inquiries, the Human Resources Department will be sent copies of any civil service requisition submitted to the State. Civil Service hiring lists will be processed by the appropriate appointing authority in accordance with Civil Service procedures and this policy.
- 2. The Human Resources Department will have the option to monitor and be present at interviews, thus providing consistency in the selection process on a Town-wide basis.
- 3. Upon favorable completion of a background character investigation, an offer of employment may be made contingent upon successful and satisfactory completion of a physical medical examination and a psychological evaluation. The hiring authority or the Department Head shall process appointments as required by Civil Service and, where applicable, the appropriate training academy or entity. The appointing authority or Department Head will also complete a Personnel Action Form and forward it to the Human Resources Department with the necessary approvals, to include the signature of the Department Head or Chairperson of the Board, Committee or Commission. A copy of the employee's application and/or resume, and Civil Service selection/appointment form will be sent to Personnel for inclusion in the employee's personnel file.
- 4. Upon commencement of employment, employees shall report to the Human Resources Department to complete the required Federal and State forms as well as benefit enrollment applications. This step must be completed within the first week of employment in order for the new employee to be processed for the payroll.

V. Enforcement

The Personnel Board is responsible for the administration of and assuring compliance with this policy and procedure. Appropriate Appointing Authorities, Department Heads and other supervisory personnel are responsible for complying with the policy and procedures set forth herein and in Appendix A, Affirmative Action Plan, and for determining, on behalf of their Board, Committee or Commission, who shall be hired.

VI. Definitions

Please refer to the definitions listed in the Town Bylaws, Article 31, Classification and Salary Plan Appendix, Section III - Miscellaneous.

Personnel Policy #2 – Classification and Salary Plan

I. Purpose

To define the Classification and Salary Plans established by Article 31.1 of the Town Bylaws and adopted by the School Committee for non-teaching personnel.

II. Policy

The policy of the Town of Wellesley is to pay wages and salaries that are competitive with comparable local communities and local employment markets, and that reflect the different degrees or abilities necessary to perform the requirements of the job; and to hire, promote, and grant salary increases in accordance with the established titles, groups and salary ranges.

III. Application

This policy applies to all officers and employees in the service of the Town (whether full-time, part-time, seasonal, casual, special, Civil Service, or other) except elected officials, and teaching personnel under the direction of the School Committee.

IV. Definitions

- A. **Classification:** an established title of a job or position.
- B. **Group:** a pay level in which one or more classifications of relatively similar levels of responsibilities, etc., are grouped for administrative purposes.
- C. **Salary Range:** a pay scale with minimum and maximum rates.
- D. **Step:** an established incremental level within a salary range.

- E. **Step-rate:** one of the established rates for a step within a salary range.
- F. **Standing in the Range:** a merit pay plan employee's salary position within their respective salary range.
- G. **Reclassification:** a change in the group number of a classification and grade.
- H. **Upgrade:** a change in the group number of a classification to a higher rated group.
- I. **Promotion:** an employee's change (advancement) to a higher rated job classification.
- J. **Downgrade:** a change in the group number of a classification to a lower rated group.
- K. **Demotion:** an employee's change (reduction) to a lower rated job classification.

V. Procedures

A. Classification Plan

- 1. All officers and employees of the Town shall be classified by title and group as set forth in Schedule A.
- 2. Employees shall be hired for positions identified by a classification title set forth in Schedule A and no other.
- 3. Positions shall be classified according to the duties regularly performed and reclassified when the duties regularly performed are substantially different from those set forth in the position description of the employees classification.
- 4. Request for the establishment of a new classification title and/or the re-evaluation of an existing position shall be made by the Department Head, Chairperson, Committee or Commission in writing and accompanied by a copy of a new description and such other data as may be necessary to substantiate the request.
- 5. In accordance with Article 30.5 of the Town Bylaws, the Personnel Board shall review the work of all positions subject to the Classification Plan at intervals of not more than five years.

B. The Salary Plan

1. Starting Salaries

- a. New employees should be hired at the minimum rate, as set forth in Schedule B of the Salary Plan, of the group in which they are to be classified.
- b. Upon recommendation of a Department Head, supported by evidence in writing of special reasons and exceptional circumstances, employees may be hired, with the approval of the Personnel Board, at a rate higher than the minimum rate for the position.
- c. The first six months of permanent employment with the Town of Wellesley shall be a probationary period unless a greater period is provided by the General Laws of the Commonwealth or by way of a collective bargaining agreement. Upon satisfactory completion of the prescribed probationary period, the employee on recommendation of the Department Head, and with the approval of the Personnel Director, may be granted a one-step increase (Job Group 49 and below) or a merit increase (Job Group 50 and above).

2. Salary Increases

- a. Employees in Job Group 49 and below who have completed one year of continuous full-time service and who have a satisfactory performance and attendance record, shall receive an increase of not more than one step per year until the maximum is reached. Employees may be denied a step increase by the Department Head with the approval of the Personnel Director upon submission of evidence of unsatisfactory performance or attendance. Employees denied a step increase may appeal the decision of the Personnel Director to the Personnel Board.
- b. Employees in Job Group 50 and above shall receive salary increases on the basis of merit only. Such increases shall be granted annually upon the recommendation of their Department Head, Board, Committee or Commission and with the approval of the Personnel Board or designee and shall not exceed the annual level established, which shall in no case be more than 10% of the employee's salary prior to the increase. In no event shall such wage increase cause the new base wage to exceed the maximum of the salary range on an annualized basis. (Annualized = Salary/52.2 wks)
- c. Employees promoted in or to Job Group 49 and below should enter at the minimum rate of the job to which s/he is being promoted or at his own rate (the step rate next above if his/her own rate is different than the step-rate), whichever is higher. S/He may also receive an additional step increase on the recommendation of the Department Head and the approval of the Personnel Director.
- d. Employees promoted in or to a classification in Job Group 50 and above may receive an increase of up to 15% of the employee's salary prior to such increase upon the recommendation of the Department Head and approval of the appropriate Board, Committee or Commission but shall in all cases receive at least the minimum of the salary range for the position to which they are promoted. The employee may be eligible to receive an increase on the completion of the initial six (6) months in the position and July 1 thereafter with performance rating of acceptable or better performance.
- e. Employees whose position classification has been upgraded shall move to the new group at the same step/standing in the range and shall retain their anniversary date.
- f. Employees who are reassigned, transferred, demoted or whose positions are re-graded to a lower rated classification shall enter it at his/her own rate, or at the maximum of the job, whichever is lower.

3. Overtime

Employees in Job Group 49 and below, except uniformed members of the Police and Fire Department, shall be paid for work in excess of 40 hours per week at a rate equal to time and one-half of their regular rate of pay or be granted compensatory time in compliance with the Fair Labor Standards Act.

VI. Enforcement

The Personnel Board is responsible for the proper classification and pay of employees in accordance with these plans. The Personnel Director is responsible for determining that employees are hired, classified and given rates of pay in accordance with this policy and procedure.

Personnel Policy #3 – Sick Leave

I. Purpose

To define the sick leave policy of the Town of Wellesley for employees as set forth in the Classification and Salary Appendix of the Bylaws and to establish the procedure for its fair and impartial administration.

II. Policy

The policy of the Town of Wellesley is to protect its non-union employees against loss of income because of absence due to employee non-service connected illness or injury; to protect its employees against loss of income because of absences due to employee work-related illness or injury; to protect its employees against loss of

income because of illnesses within their immediate family and as covered under the Family and Medical Leave Act; and to give additional consideration to deserving employees who have exhausted their sick leave allowance.

The amount of sick leave awarded to employees is set forth in the body of this policy.

III. Application

This policy shall apply to regular permanent full time employees and part time permanent employees who regularly work twenty or more hours per week.

In the event of personal and non-service connected illness or injury (for which no compensation is received under Worker's Compensation or Long-Term Disability), permanent employees, shall, after completion of one full year of service, be eligible for twelve (12) sick days per calendar year, the unused portion of which may be carried forward and accumulated to a maximum of one hundred and fifty (150) days. This vesting and accumulation of unused sick days is intended solely for illness protection and does not constitute an obligation on the part of the Town to buy back any unused sick days at the time of separation from the service of the Town.

Employees who have completed one full year of service may be granted discretionary sick leave of up to eighteen (18) additional days per year with the approval of the Department Head or Human Resources Board.

Newly hired permanent employees will be credited with one day of sick leave per month upon completion of each month of full-time service and shall not exceed twelve (12) days of sick leave in their first year.

Permanent part-time employees regularly working twenty (20) hours or more per week shall be granted time off with pay according to the ratio that their part-time employment bears to full-time employment.

An employee may use up to five (5) of his/her allowed twelve (12) sick days per calendar year when his/her personal attendance is necessary during the illness or injury of an immediate family member. Use of more than five (5) days of an employee's accrued sick leave for the purpose of caring for an immediate family member in the event of serious, long-term illness or injury may be granted on the recommendation of the Department Head and with approval of the Human Resources Director. "Immediate family member", for the purpose of this policy, is defined as spouse, child or parent of either the employee or his/her spouse.

IV. Procedure

A. Non-occupational illness or injury

Department Heads shall determine, and grant, what they consider to be the appropriate and reasonable allowance.

1. To be eligible for sick leave pay employees must notify their supervisor on the first day of absence, stating the nature of the sickness or injury, time expected to be incapacitated and when they expect to return to work. (To request sick leave pay for absences covered under the Family and Medical Leave Act refer to Leave of Absence Policy.)
2. Department Heads and Supervisors shall report absences due to employees' illness or injury or absences covered by the Family and Medical Leave Act on the time reporting document, time card, etc and shall send one copy to the Financial Service Department where an Absence file will be maintained. All Absence Pay shall be so designated on the payroll.
3. Department Heads shall be responsible to check on all such absences. A doctor's statement shall be required after the seventh day. The doctor's statement must state the reason for the absence, the prognosis and expected date of return to work. If deemed in the interests of the Town, the Department Head and/or the Human Resources Board shall have an independent doctor make an examination and report.
4. Paid absence due to illness shall be utilized in the following sequence: current year's allowance (first twelve (12) days), accumulation, and discretionary sick leave as granted by the Department Head or Human Resources Board.

B. Occupational Injury of Illness

In the event an employee is incapacitated as the result of a bona fide injury or illness arising out of or in connection with the service to the Town and for which Worker's Compensation is payable; s/he shall be granted the difference between Workers' Compensation payments and his/her regular straight time rate of pay on the same basis and procedure as set forth under Section A. 4 above.

C. Employees who have exhausted sick leave benefits under Section III and Section IV B above, and whose sick leave record, length of service and work performance warrant consideration, may receive additional sick leave allowance at full or at part pay, whichever shall be deemed appropriate by the Human Resources Director, subject to ratification by the Human Resources Board. Requests for the above sick leave extension must be made by completing the sick leave extension form, with a statement by the attending physician.

D. Benefits under this Section shall be coordinated with any benefits received under the Town's long-term disability insurance program provided, however, that employees may not receive time off with pay that, in total, exceeds their regular compensation.

V. Enforcement

False and fraudulent claims for sick leave allowance or approval of sick pay for other than absence due to personal illness or illness covered under the Family and Medical Leave Act are grounds for disciplinary action, including discharge. Payment of sick leave pay in excess of the allowance set forth in this policy and procedure is unauthorized without the written approval of the Human Resources Board. The Director of Human Resources is responsible for the impartial administration of this policy.

Personnel Policy #4 – Drug and Alcohol Testing For Employees In Positions Requiring A Commercial Driver's License (CDL) Which Are Defined As Safety-Sensitive

I. Purpose

The purpose of this policy is to outline the responsibilities of employees, supervisors and managers with regard to drug and alcohol testing of employees in safety-sensitive positions in accordance with the U. S. Department of Transportation regulations, issued under the Omnibus Transportation Employee Testing Act of 1991.

This policy is in addition to, and does not limit in any way, the Town's right under any Collective Bargaining Agreement, practice or policy.

II. Policy

It is the policy of the Town of Wellesley to comply fully with the 1994 Rules issued by the U.S. Department of Transportation under the 1991 Omnibus Transportation Employee Testing Act dealing with limitations on alcohol and drug use by transportation workers, drug and alcohol testing of such workers and the reporting/record keeping requirements relative to such testing. The Rules found under Title 49 of the Code of Federal Regulations apply to all interstate and intrastate truck and motor coach operators, including but not limited to Town employees who are required to have a commercial driver's license.

While the Town of Wellesley has no intention of intruding into the private lives of its employees, the Town does expect employees to report for work in condition to perform their duties. The Town recognizes that employee off-the-job as well as on-the-job involvement with drugs and alcohol can have an impact on the work place and on our ability to accomplish our goal of an alcohol and drug-free environment.

III. Application

This policy applies to all employee drivers of commercial motor vehicles, as defined herein, who are required to drive such vehicles in the course of their employment with the Town. The policy applies, at a minimum, during all on duty time. On duty time means the moment a driver begins to work or is required to be in readiness to work, i.e., four (4) hours prior to commencing work, until the time the employee is relieved from work and all responsibility for performing work. For purposes of this policy, on duty time includes lunch and break periods.

Notwithstanding the above, all certified Fire and Police Personnel are statutorily exempt from the provisions of this procedure. Departmental Policy for these employees which regulated the use of controlled substances and alcohol is still applicable. This new Drug and Alcohol Testing Program is effective for Wellesley on January 1, 1996, and continues in effect unless superseded or repealed by competent authority. Employees covered by the above criteria must participate in the Drug and Alcohol Testing Program as a condition of employment.

IV. Prohibited Conduct

The following conduct is prohibited:

1. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions with a breath/blood alcohol content of 0.02 percent or higher.
2. Use of alcohol within the four (4) hours prior to performing a safety-sensitive function.
3. Use of alcohol on the job.
4. Use of alcohol during the eight (8) hours following an accident.
5. Possession of any medication or food containing alcohol while driving a vehicle.
6. Refusal to take a required test or cooperate in the testing process.
7. Refusal to complete and/or sign required testing forms.
8. Use of controlled substances on or off duty unless a doctor has prescribed the controlled substance and the doctor has informed the employee that the substance does not adversely affect the employee's ability to operate a vehicle safely.
9. Tampering with a test procedure or test sample.

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which could adversely affect the employee's mental functioning, motor skills, or judgment must be reported to supervisory personnel and medical advice should be sought, as appropriate, before performing work-related safety sensitive duties. A legally prescribed drug means a drug for which the individual has a prescription or other written approval from the physician for the use of a drug in the course of medical treatment. The misuse or abuse of legal drugs while performing Town business is additionally prohibited.

V. Refusal to Cooperate

Refusal by a covered driver to consent to a test for the presence of drugs, prescribed medication, or alcohol, or consent to search or to otherwise fully cooperate in an investigation involving drugs or alcohol pursuant to this policy will constitute just cause for disciplinary action in accordance with the terms of the Collective Bargaining Agreement, practice or policy, up to and including termination. (In accordance with Sections 382.211, 382.503, 382.605 of the Federal Regulations, refusal to be tested is considered the same as a positive test result and said employee cannot perform a safety-sensitive function until s/he completes referral to a substance abuse professional, evaluation and treatment.)

VI. Procedures

1. Pre-placement Testing

It is a requirement of the Federal Department of Transportation that, following an offer of employment, all candidates to be hired in a safety sensitive position must submit to controlled substance testing prior to assuming the duties of the position.

The original regulations also required pre-placement alcohol testing prior to assuming the duties of a safety sensitive position. However, this requirement was subsequently suspended. Should this requirement be reinstated by the Department of Transportation, it will become effective as appropriate in Wellesley following any necessary discussions with effected unions.

In situations where an applicant for employment either refuses to be tested or tests positive, the conditional offer of employment by the Town of Wellesley will be withdrawn.

2. Pre-placement References

The Town must obtain and review the following information from each employer that the prospective driver worked for, in a safety sensitive position, during the previous two years: information about a test in which the employee's blood alcohol was 0.04 or greater; information about any refusal to participate in the alcohol and drug testing program.

The prospective employee must provide the former employer with a written release allowing the release of this information or s/he will not be hired.

If the previous employer indicates that a positive result was received, or that the employee refused to participate when selected for an alcohol or drug test, the applicant generally will not be appointed. The prospective employee may be considered for appointment only if s/he has already consulted with a substance abuse professional, already received recommended treatment, and subsequently tested negative in a return to duty test for the former employee.

The Town of Wellesley must provide the same information to subsequent employers of current Town employees when provided with a written release.

3. Post-Accident Testing

It is a requirement of the Federal Department of Transportation that employees required to perform safety sensitive duties be subject to post-accident alcohol and drug testing under the following conditions:

When the accident has involved a fatality; or

When the accident results in a citation being issued to the employee; and either of the following occurs:

- a) bodily injury has occurred to any party involved requiring medical attention away from the scene of the accident; or
- b) one or more motor vehicles involved in the accident has sustained damage which requires one or more of the motor vehicles to be towed away.

(It is the responsibility of an employee to inform the Town when they have received a citation while performing a safety sensitive function.)

If an employee tests positive with 0.04 or higher on the alcohol test, s/he is not allowed to drive back home or to the workplace.

Under the Federal Regulations, refusal to be tested following a fatal accident results in the loss of CDL license for one year.

Post-Accident Procedures

In all above related cases, all work-related activity being performed by Town of Wellesley employees is to cease immediately. The driver of the vehicle is to be transported to the designated testing site. The driver is not to transport him/herself to the testing site in either a privately owned or Town of Wellesley owned vehicle.

The driver is prohibited from consuming alcohol for eight hours following the accident, or until a post-accident alcohol test has been performed. When reporting for the testing, employees must present their CDL license as their identification.

Alcohol Testing

Tests for alcohol use shall be conducted within two (2) hours, but in no case more than eight hours of the accident. If the screening alcohol test results in a breathalyzer reading above 0.02, the employee will be retested within 15-20 minutes. If the results of the confirmation alcohol test show a 0.02 - 0.039 breathalyzer reading, the employee will be removed from safety sensitive duties for a minimum of twenty-four (24) hours. In addition, the Town reserves its right to impose disciplinary action in accordance with the terms of the Collective Bargaining Agreement, practice, or policy, up to and including termination.

If the test confirmation result is a 0.04 or higher blood alcohol level, the employee will be removed from safety sensitive functions until s/he has completed the following:

Substance abuse evaluation by a Substance Abuse Professional (SAP).

Evaluation and referral, when necessary, by the Town of Wellesley's Employee Assistance Program.

A return-to-duty controlled substance and/or alcohol test. The alcohol test results must show a concentration below 0.02.

In addition, the Town reserves its right to impose disciplinary action in accordance with the terms of the Collective Bargaining Agreement, practice, or policy, up to and including termination.

Controlled Substance Tests

Tests for controlled substance use shall be conducted within thirty-two (32) hours of the accident. If the result of the controlled substances test is positive, the employee will be removed from safety sensitive functions until s/he has completed the following:

Substance abuse evaluation by a Substance Abuse Professional (SAP).

Evaluation and referral, when necessary, by the Town of Wellesley's Employee Assistance Program.

A return-to-duty controlled substance and/or alcohol test.

(Should the employee dispute the positive result of a controlled substance test, s/he may request that a second test be performed on the split sample specimen. If the second test result is positive, the employee will be responsible for the incurred expense.)

In addition, the Town reserves its right to impose disciplinary action in accordance with the terms of the Collective Bargaining Agreement, practice, or policy, up to and including termination.

Action Due to Positive Test Results

During this period of evaluation, referral and return to duty testing, the employee will not be allowed to work in a safety sensitive function. S/he will be allowed to use any vacation, personal, or sick leave as available under a collective bargaining agreement or Bylaw (whichever is applicable) during this treatment period if treatment is required during normal working hours. The Personnel Director will be provided with on-going medical reports dealing with the diagnosis of and progress being made by the employee.

At the time when the employee returns to work in a safety sensitive function, s/he will again be subject to all aspects of alcohol and controlled substances testing under the Federal Department of Transportation rules. This will include follow-up testing as well as continued participation in the random testing pool. Follow-up tests are unannounced and at least six (6) tests must be conducted in the first 12 months after an employee returns to duty. The Town of Wellesley agrees to bear the expense of the six (6) follow-up tests. In accordance with the regulations, follow-up testing may be extended for up to 60 months under extreme circumstances following the return to duty and will be at the employee's expense.

If an employee again tests positive for alcohol and/or controlled substances or refuses a follow-up test, the Town reserves its right to impose disciplinary action in accordance with the terms of the Collective Bargaining Agreement, practice, or policy, up to and including termination.

4. Random Alcohol and Drug Testing

It is a requirement of the Federal Department of Transportation that employees performing safety sensitive functions be subject to random alcohol and controlled substance testing. Each year, the number of random alcohol tests conducted by the Town must equal at least 25% of all covered employees. Random drug tests conducted by the Town must equal at least 50% of all covered employees.

If an employee subject to random testing has positive results on the alcohol test of 0.04 or higher, s/he is not to be allowed to drive back to their home or to the workplace.

Random Testing Procedures

When reporting for the testing employees must present their CDL license as their identification.

Alcohol Testing

If the screening alcohol test results in a breathalyzer reading above 0.02, the employee will be retested within 15-20 minutes. If the results of the confirmation alcohol test show a 0.020-0.039 breathalyzer reading, the employee will be removed from safety sensitive duties for a minimum of 24 hours. In addition, the Town reserves its right to impose disciplinary action in accordance with the terms of the Collective Bargaining Agreement, practice, or policy, up to and including termination.

If the test result is 0.04 or higher blood alcohol level, the employee will be removed from safety sensitive functions until s/he has completed the following:

Substance abuse evaluation by a Substance Abuse Professional (SAP).

Evaluation and referral, when necessary, by the Town of Wellesley's Employee Assistance Program (EAP).

A return-to-duty controlled substance and/or alcohol test. The alcohol test results must show a concentration below 0.02.

In addition, the Town reserves its right to impose disciplinary action in accordance with the terms of the Collective Bargaining Agreement, practice, or policy, up to and including termination.

Controlled Substance Tests

If the results of the controlled substances test are positive, the employee will be removed from safety sensitive functions until s/he has completed the following:

Substance abuse evaluation by a Substance Abuse Professional (SAP).

Evaluation and referral, when necessary, by the Town of Wellesley's Employee Assistance Program.

A return-to-duty controlled substance and/or alcohol test.

(Should the employee dispute the positive result of a controlled substance test, s/he may request that a second test be performed on the split sample specimen. If the second test result is positive, the employee will be responsible for this incurred expense.)

In addition, the Town reserves its right to impose disciplinary action in accordance with the terms of the Collective Bargaining Agreement, practice, or policy, up to and including termination.

Action Due To Positive Test Results

During this period of evaluation, referral and return-to-duty testing, the employee will not be allowed to work in a safety sensitive function. S/he will be allowed to use any available accumulated personal, vacation or sick leave as available under the collective bargaining agreement or Bylaw (whichever is applicable) during this treatment period if treatment is required during normally scheduled working hours. The Personnel Director will be provided with on-going medical reports dealing with the diagnosis of and progress being made by the employee.

At the time when the employee returns to work in a safety sensitive function, s/he will again be subject to all aspects of alcohol and controlled substance testing under the Federal Department of Transportation rules. This will include follow-up testing as well as continued participation in the random testing pool. Follow-up tests are unannounced and at least six (6) tests must be conducted in the first 12 months after an employee returns to duty. The Town of Wellesley agrees to bear the expense of the six (6) follow-up tests. In accordance with the regulations, follow-up testing may be extended for up to 60 months under extreme circumstances following the return to duty and these tests will be at the employee's expense.

If an employee again tests positive for alcohol and/or controlled substances or refuses to take a follow-up test, the Town reserves its right to impose disciplinary action in accordance with the terms of the Collective Bargaining Agreement, practice, or policy, up to and including termination.

5. Reasonable Suspicion Alcohol and Drug Testing

It is a requirement of the Federal Department of Transportation that employees in safety sensitive positions be subject to reasonable suspicion alcohol and drug testing.

If an employee tests positive with a result of 0.04 or higher on the alcohol test, s/he is not to be allowed to drive back home or to the workplace.

Reasonable Suspicion Procedures

An employee shall be required to submit to alcohol and drug testing when there is a reasonable suspicion that s/he is using or is under the influence of a prohibited drug. Reasonable suspicion shall be based upon specific behavioral or performance indicators of probable prohibited alcohol and drug use. In making determinations of reasonable suspicion, supervisors will not act in an arbitrary or capricious manner.

When reporting for the testing, employees must present their CDL license as their identification.

Reasonable Suspicion testing Procedures and Action to be taken due to positive results are the same as previously outlined under the Random Alcohol and Drug Testing.

VII. Information/Training

1. All current and new employees will receive written information about the testing requirements and how they may receive assistance for alcohol or drug misuse. All employees must receive a copy of this policy and sign the Confirmation Receipt (Attachment A).
2. All supervisory and management personnel in the Department of Public Works must attend at least two hours of training on alcohol and drug misuse symptoms and indicators used in making determinations for reasonable suspicion testing.

VIII. Record Keeping

1. The Town is required to keep detailed confidential records of its alcohol and drug misuse program.
2. Driver alcohol and drug testing records are confidential. Test results and other confidential information may only be released to the Personnel Director, Department Director, or Department Division Head, the substance abuse professional, the Medical Review Officer, the employee and any arbitrator of a grievance filed due to action taken under this policy. Any other release of this information may only be made with the driver's consent.

IX. Definitions

Controlled Substance: A controlled substance is any illegal drug or any substance identified in Section 102(6) of the Controlled Substance Act (21 USC 802(6)) and as further defined in 21 CFR 1300. This includes, but is not limited to, marijuana, amphetamines, opiates, phencyclidine, and cocaine, as well as any drug not approved for medical use by the Drug Enforcement Administration or the Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs and use of illegally obtained prescription drugs.

A Commercial Motor Vehicle is defined as a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property as established by Federal and State law which:

- a. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 lbs; or
- b. Has a gross vehicle weight rating of 26,001 or more pounds; or
- c. Is designated to transport 16 (sixteen) or more passengers, including the driver; or
- d. Is of any size and is used in transportation of materials found to be hazardous for the purposes of the hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the hazardous Materials Regulations (49 CFR Part 172, Subpart F).

Safety Sensitive Function: Operating a commercial vehicle, as defined above means:

1. The operation of the vehicle;
2. The time spent waiting to be dispatched to drive the vehicle; or
3. Any time spent in the maintenance of the vehicle.

Substance Abuse Professional: A licensed physician, certified psychologist, employee assistance professional, or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission, with knowledge of and clinical experience in the diagnosis and treatment of controlled substances and alcohol-related disorders.

(For other definitions, refer to the 1991 Omnibus Transportation Employee Testing Act and amendments.)

Personnel Policy #5 – Workplace Violence

I. Policy Statement

The Town of Wellesley maintains a zero tolerance policy toward workplace violence, or the threat of violence, by any of its employees, customers, the general public, and/or anyone who conducts business with the Town. It is the intent of the Town and this department/division to provide a workplace which is free from intimidation, threats, or violent acts.

II. Definitions

Workplace violence includes, but is not limited to harassment, threats, physical attack, or property damage. A threat is the expression of an 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 is intentional hostile physical contact with another person such as hitting, fighting, pushing, shoving, or throwing objects. Property damage is intentional damage to property which includes property owned by the Town, employees, or others.

III. Prevention of Workplace Violence

The Town subscribes to the concept of a safe work environment and supports the prevention of workplace violence. Prevention efforts include, but are not limited to informing employees of this policy, instructing employees regarding the dangers of workplace violence, communicating the sanctions imposed for violating this policy, and providing a reporting hierarchy within which to report incidents of violence without fear of reprisal.

IV. Procedure for Reporting Threats

Each incident of violent behavior, whether the incident is committed by another employee or an external individual such as a customer, vendor, or citizen, must be reported to department management. Management will assess and investigate the incident and determine the appropriate action to be taken. Department management will inform the Human Resources Department of all reported incidents of workplace violence and will inform the employee of their right to have the Police Department notified.

In critical incidents in which serious threat or injury occurs, emergency responders such as Police, Fire and/or Ambulance personnel must be promptly notified. As necessitated by the seriousness of the incident, the Human Resources Department may assemble a Management Response Team that consists of staff from the effected Department, Human Resources Department, Town Counsel, and may include the Employee Assistance Program, Emergency Response, Police Department and others as deemed necessary.

The Management Response Team is responsible for establishing the protocol in the event of a threat or violent incident that may include but is not limited to:

- evaluating the potential violence problems,
- assessing an employee's fitness for duty (through mental health professionals),
- establishing a plan for the protection of co-workers and other potential targets,
- coordinating with affected parties such as victims, families, employees, media, or law enforcement personnel,
- referring victims to appropriate assistance and community service programs,
- assuring that immediate (within 24 hours) and on-going counseling is available to traumatized individuals.

Any employee who acts in good faith by reporting real or implied violent behavior will not be subjected to any form of retaliation or harassment. Any action of this type resulting from a report of violence must be reported to the appropriate management staff for investigation and decision regarding proper action.

V. Prohibited Actions

It is a violation of this policy to engage in any act of workplace violence. Any employee who has been determined by the Department Board/Committee, Department Head, or Police to be in violation will be subject to disciplinary action up to and including termination and, depending upon the violent act, may be subject to criminal sanctions.

VI. Departmental Security Audits

Whenever the physical layout of the work space is significantly altered, the Department/Division Manager will examine the escape routes of the work area and communicate any changes to all department/division employees. On an as needed basis, the Department/Division Manager may request a security audit from the Police Department to determine available security measures. All employees should openly communicate with each other to be aware of any unusual activity that may identify the potential for or actual occurrence of a violent incident.

VII. Employee Training

The Department/Division Manager, or his/her designee, will orient all new employees to departmental/divisional procedures regarding reporting incidents of violence, 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.

VIII. Employee Assistance Program

Should an employee become the victim of an incident of workplace violence, the Department/Division Manager may offer additional referral services to assist in coping with any effects of the incident. Should an employee commit an act of violence and it is determined in the investigation that the employee did, in fact, commit the violent act, s/he may 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 may result in disciplinary action.

Personnel Policy #6 – Leaves of Absence

I. Purpose

To define the leave of absence policy of the Town of Wellesley and to establish the criteria and procedures for granting such leaves in compliance with the Federal Family and Medical Leave Act (FMLA) effective 8/5/93.

II. Policy

To protect deserving employees against loss of seniority and service credit, to the extent it is practical and fair to do so, by granting leaves of absence without pay for education, military, health, or compelling personal reasons on the recommendation of the employee's Department Head and with the approval of the Personnel Board, in accordance with existing laws. Employees granted leaves in accordance with this policy and procedure shall be considered in an "inactive employment" status and time, other than military duty, spent on such leaves of 30 days or more shall not count as service or time worked for purposes of seniority, vacation, sick leave, pensions or other benefits.

III. Application

This policy applies to all permanent employees who have completed their respective probationary period with the Town and who regularly work twenty or more hours per week and have worked 1,250 hours (military leave exempt) in the year preceding the leave. (Special exemptions or conditions may apply to teachers and senior level managers per the FMLA).

IV. Definitions

A. Department Head: An employee responsible for the administration of a function or activity under the direction of an elected or appointed Board, Committee, or Commission.

B. Teaching Personnel: Professional personnel in the schools whose duties and responsibilities are academic rather than administrative (personnel in bargaining units A & B).

C. Senior Level Management: As defined in the Federal Family and Medical Leave Act, those administrative positions which are paid in the top 10% of Town salaries.

V. Procedure

A. Employees unable to report to work because of military duty; maternity; serious personal health; serious illness of a spouse, child or parent; or for compelling personal reasons, or those who wish to attend school, shall submit an application for a Leave of Absence on the form attached to this policy. The application must specify dates and time for which leave is requested and set forth the reasons in detail. Whenever possible, application must be submitted at least thirty (30) days in advance of the intended leave. In the case of military, health, and education leaves, supporting documents shall be required.

B. A supervisor will verify and substantiate the reasons submitted by the employee whenever possible, and after due consideration of the requirements of the Department and the employee's length of service/successful completion of probationary period, will forward the request with his recommendations to his Department Head for transmittal to the Personnel Office.

C. A Department Head recommending approval of the leave of absence should do so on a Personnel Action Form and attach the Application for Leave of Absence with supporting documents.

D. Leaves of Absence may be granted as follows:

1. for extended active military service in accordance with appropriate statutes.
2. for 17 calendar days per year for Reserve or National Guard duty for training.
3. until the completion of the course of instruction but not more than one semester.
4. for up to a total of twelve (12) weeks in a twelve month period for a, b, or c, or combinations of a, b, or c:
 - a) the birth or adoption of a child as set forth in applicable law. (NOTE: When the employee herself is incapacitated for medical reasons due to pregnancy, it shall be treated as any other physical incapacity for which extensions may be granted on the recommendation of the attending physician.)
 - b) serious personal illness rendering an employee incapable of performing the functions of the job.
 - c) serious illness of a spouse, child, or parent as specified in the FMLA.
5. for up to thirty (30) days in a 12 month period for compelling personal reasons.

E. The twelve month cycle will begin with the first actual day of the employee's leave.

F. Accrued sick and vacation time may be used during leaves for serious personal illness, serious illness of a spouse, child or parent, or the birth/adoption of a child.

G. Leaves that qualify as conditions under the Federal Family and Medical Leave Act which are taken under any other provision shall run concurrently.

H. Employees granted leave of absence in accordance with this policy may remain in their Town of Wellesley Group Health Insurance Plan, provided arrangements are made with the Treasurer of the Town for payment of the employee portion of the current monthly premium for the duration of the leave of absence. Employees who fail to make a monthly payment in a timely manner for the employee contribution portion of the premium will be notified and automatically dropped from the plan once they become thirty (30) days in arrears.

VI. Enforcement

Failure to return to work on or before the expiration date of a leave of absence shall constitute a voluntary termination of employment. Acceptance of employment of any kind for pay while on leave of absence (other than military) shall be considered to be voluntary resignation on the part of the employee. The respective Department Head and the Director of Personnel are responsible for uniform and impartial administration of this policy and procedure.

Personnel Policy #7 – Travel & Transportation

I. Purpose

To define the policy of the Town of Wellesley on travel, transportation, and the use of private automobiles in the conduct of official Town business and to establish the procedure for the reimbursement or payment of expenses connected therewith.

II. Policy

Employees shall be reimbursed for actual, reasonable and necessary expenses incurred by and for themselves as a result of approved travel in connection with their duties or office. Travel shall be at tourist or coach class using the most direct or economical route. Employees using private automobiles shall be reimbursed for such travel at a rate of \$0.365 per mile except that, as a rule, such reimbursement shall not exceed the cost of public transportation. Employees whose duties require transportation continuously and regularly, may be provided with a vehicle or receive a stated monthly allowance in lieu of reimbursement for the use of their private automobiles.

III. Application

This policy applies to all employees of the Town of Wellesley.

IV. Definitions

- A. Actual Expense: An expense which has been incurred and must be paid by an expenditure of money.
- B. Reasonable Expense: An expense, the amount of which is appropriate for the position of the individual and the circumstance giving rise to the expense.
- C. Necessary Expense: An expense, the incurrence of which results directly from approved travel.

Actual, reasonable and necessary expenses include, but are not necessarily limited to, meals and lodging while away from usual place of work; transportation, including tolls, legal parking fees, car rental and mileage between the employee's usual place of work, the destination and return; business or professional association dinner meeting expenses, including gratuities.

V. Procedure

Committees, Commissions and Boards shall authorize travel and ascertain which employees require transportation for the conduct of their duties. They shall further determine the most economical means of providing such transportation, i.e., purchase, lease or monthly allowance, subject to approval of the Board of Selectmen.

- A. Employees needing funds for travel may request an advance. Such requests should state the purpose of travel, give a detailed estimate of expenses, and be submitted through appropriate channels to the Board of Selectmen for approval.
- B. Employees requesting reimbursement for travel expenses must submit their expense report within 30 days of the completion of travel. Receipts must be attached.
- C. Claims for reimbursement of expense must be submitted on the expense report form attached, and approved by the employee's supervisor and Department Head/Board Chairman.
- D. Expenses will be reimbursed through the employee's paycheck and distributed by the Treasurer.

VI. Enforcement

Fraudulent or false expense reports are grounds for disciplinary action including discharge. Department Heads are responsible for the accuracy of the expense report. The Town Accountant is responsible for uniform and impartial application of this policy.

Personnel Policy #8 – Employee Standards of Conduct and Disciplinary Procedures

I. Purpose

To define the policy of the Town of Wellesley for ensuring a high standard of conduct, performance, and integrity among employees and to establish a disciplinary procedure for the fair and impartial enforcement of regulations governing conduct.

II. Policy

The policy of the Town of Wellesley is to demand a high standard of performance, conduct, and integrity from its employees through the use of positive forms of motivation. When self-discipline and self-motivation fail, constructive discipline will be used to ensure employees fully perform their duties and responsibilities in a productive, lawful, safe, and respectful manner.

III. Application

This policy and procedures applies to all Town positions covered under Article 31.1 of the Town Bylaws and in no way negates an employee's at-will status or a hiring authority's right to terminate at any time or during the initial six month probationary period delineated in the Appendix to the Classification and Salary Plan of Article 31 of the Town Bylaws.

IV. Standards of Conduct

The following is a set of guidelines to govern the conduct of employees; it is not meant to be all inclusive or to imply an employment contract. The Town reserves the sole right to add to, delete, or modify these guidelines at any time. Supervisors are expected to provide these guidelines to their employees. Employees are also expected to be aware of and follow the specific work rules and regulations of their respective department.

A. Personal Integrity

1. Massachusetts Conflict of Interest Law - All new employees should be given a copy of the Massachusetts Conflict of Interest Law (MGL, Chapter 268A) when hired. Employees must familiarize themselves with and abide by this law at all times. (Copy attached)

An employee with any questions regarding a violation, an appearance of a violation or a potential violation of the Conflict of Interest Law should seek guidance from a supervisor, Department Head, or the Human Resources Department immediately.

2. Professional Conduct

Employees must always put citizens and customer service first and act in the best interest of the Town. Employees must be courteous and respectful in all contacts and interactions with the public. Employees should consult a supervisor with any problems regarding an unsatisfied citizen.

Employees must work as scheduled and perform duties to which they are assigned to the best of their abilities at all times.

Employees must not sleep, engage in recreational reading, watch television, play a radio, walkman or computer games or otherwise engage in any non-work-related activities during scheduled work hours unless authorized by their supervisor.

Employees must not gamble or conduct gambling activities during hours of employment or on Town property.

Employees must not possess intoxicants or illegal drugs while on Town property or in Town vehicles or equipment, or report to work under the influence of intoxicants or illegal drugs. Employees taking medication prescribed by a physician who may cause impairment of their ability to use Town equipment must so notify their supervisor.

Employees are expected to treat their co-workers in a respectful manner.

Employees must maintain a personal appearance appropriate to their position.

Employees must not threaten, intimidate, coerce, harass, or in any other way interfere with the performance of another employee.

Employees must assure that Town agencies cooperate with each other.

Employees must not try to advance their agency, department, position or ideas over another for purely personal benefit.

Employees must refrain from participating in any other activity, job, etc., which involves such time demands as would render performance of duties as a Town employee less efficient. Employees must also refrain from the solicitation of commercial activities while on the job.

Employees must refrain from conducting themselves in a manner unbecoming to their position with the Town.

B. Records

Employees are prohibited from falsifying or defacing Town records such as the employment application, time sheets, I-9 forms, departmental reports, or any other documents.

C. Use of Town Property

Employees must not misappropriate, abuse or destroy Town property, either deliberately or through negligence. The law prohibits employees from using publicly owned or supported property, equipment, vehicles, labor or services for private or political purposes, and from removing Town property from the premises without authorization. (NOTE: Massachusetts General Law, Chapter 32 B, Section 15 provides that any Town employee found to be guilty of the theft or misuse of Town funds or property may lose all or a portion of his/her retirement benefit, depending on the nature of the offense.)

D. Safety

Employees must observe all safety rules, laws and regulations. Employees must use all tools, equipment, supplies, machinery and vehicles in accordance with departmental safety standards and procedures.

Employees must follow all applicable accident and injury prevention and reporting procedures.

Employees must refrain from fighting, engaging in horseplay, and playing pranks.

Employees must not carry weapons on the job or into the work site.

Employees must observe non-smoking rules.

E. Political Activities

Employees may not participate in any partisan political activities during work hours.

Employees must establish that they are not acting as an employee of the Town, but as a private citizen, when engaging in any political activities while off-duty.

Employees are prohibited from directly or indirectly soliciting political funds or contributions, knowingly, from other Town employees or officers. (This does not prohibit employees from soliciting funds by mail to a significant segment of the public which may include Town employees.)

F. Attendance

Employees are expected to report for work on time in a consistently dependable manner in order to enable the orderly flow of services to the citizens of the Town. Excessive absences and tardiness, as defined by the various operational departments/divisions, must be avoided.

Employees must not leave their work area or site without permission or leave before the end of the shift without permission unless in the case of an extreme emergency.

Employees must notify their supervisor of any unforeseen absences prior to the beginning of their work shift. Failure to report in will cause the employee to be considered Absent Without Leave (AWOL) and may result in loss of pay as well as discipline. Planned absences, such as time off for vacations, must be approved in advance by your supervisor in accordance with respective departmental rules.

G. Insubordination

An employee's refusal to obey a supervisor's direct order or willful failure to perform an assigned task or follow an established procedure is viewed as an extremely serious workplace offense.

Verbal and physical abuse of supervisors or other management representatives is regarded as insubordination and can result in disciplinary action up to and including discharge.

V. Disciplinary Procedure

Violations of work rules, instances of unacceptable behavior or misconduct, or continued poor performance will be subject to progressive discipline and may also warrant referral to the Town's Employee Assistance Program. This means that employees will be assessed penalties that become increasingly severe for successive offenses whether or not of the same nature or kind or in those incidences in which a performance improvement is not forthcoming. However, based on the employee's work record and the severity of the misconduct or performance issue, an escalation of the progressive discipline system may be warranted. For example, some types of misconduct are so intolerable that they may be punished by termination at the first occurrence. These include, but are not limited to, physical attacks on supervisors or co-workers; falsification of an employment application or other work documents or records; theft; willful property damage; or use or possession of illegal drugs on the job.

A. The following progressive steps should be taken in the event of misconduct unless as noted above:

1. The first step in the Town's progressive disciplinary system is the "oral reprimand". This is an oral warning to erring employees that their conduct is unacceptable, and that further infractions will lead to more severe penalties. In cases involving performance deficiencies, employees first will be counseled by their supervisors and

told which improvements are needed before they are subject to an oral warning. A notice of oral reprimand will be placed in the employee's file, but may be removed if the misconduct does not recur during the time period determined by the Department Head or the performance deficiencies have been corrected.

2. The second step is a "written reprimand". This reprimand will describe the unacceptable conduct of performance and specify the improvement needed. A copy of this warning will be retained in the employee's personnel file indefinitely.

3. The third step is an unpaid suspension. The length of suspension will vary, based on such factors as the severity of the offense and the employee's performance and disciplinary record. Employees may be suspended for repeated instances of minor misconduct or for a single serious offense. A record of the suspension will be retained indefinitely in the employee's personnel file.

4. Employees who fail to improve their conduct or performance after imposition of a disciplinary suspension may be discharged.

B. In an effort to provide employees with a reasonable opportunity for input, the following procedures should be followed in a timely manner whenever possible:

1. Before imposition of any discipline, employees will be given an opportunity to relate their version of the incident or problem at issue and provide any explanation or justification they consider relevant. Management will conduct an objective investigation of the circumstances.

2. Discipline should be related to the seriousness of the offense and the employees' work record and length of service.

3. If dissatisfied with disciplinary action taken against them, by appealing to their Manager and/or Appointing Authority.

4. The authority of supervisors to discipline is that which is delegated to them by their Department Head and/or Board or Committee. The Human Resources Department must be kept informed of all disciplinary measures more severe than an oral warning in order to advise managers Town-wide in a consistent manner.

5. Employees who commit acts of violence or other egregious misconduct or serious safety violations may be placed on leave at the time of the incident, pending a management investigation and review of the matter. Workers who are found not culpable or are otherwise cleared of charges pending against them will be reinstated with full back pay and no loss of benefits or seniority. Employees who have had charges sustained against them may be suspended or discharged effective immediately.

6. Employees who are discharged from the Town are entitled to all pay due them from the Town in their final paycheck and shall be required to return all Town property in their possession. Discharged employees should be escorted by a management representative from the premises.

VI. Enforcement

Each supervisory and management employee is responsible for the enforcement of rules, standards of conduct, and the protection of the interests of the Town of Wellesley. The Human Resources Department is responsible for advice and assistance in the administration of this policy.

Personnel Policy #10 – Performance Reviews

I. Purpose

To define the policy and establish the procedure for the review of employees' work performance.

II. Policy

To insure impartiality in the selection of employees for work assignments, training, promotion and salary increase; to promote understanding between employees and supervisors and to insure the most effective utilization of personnel, each employee shall receive an orderly, objective, and accurately documented review of his work performance once a year.

III. Application

This policy applies to all permanent employees whose salary and benefits are set forth in the Town of Wellesley Personnel Bylaw and Salary Plan, excepting Department Heads.

IV. Procedure

A. Each employee's performance will be reviewed by his immediate supervisor who will record his judgment on the Performance Review Form and discuss the review with the employee.

B. Upon completion of the discussion between the employee and supervisor, the Performance Review Form will be signed by both and forwarded to the appropriate Department Head for review and then to the Personnel Office for review and inclusion in the employee's file.

C. Supervisors will report and recommend action to correct all unsatisfactory work performance.

D. The Personnel Office will forward the appropriate review form to the Supervisor one week prior to the anniversary date of the employee's employment or promotion. The completed form must be returned to the Personnel Office within two weeks.

V. Enforcement

Supervisors are responsible for reviewing the employee's performance. Department Heads are responsible for compliance with the provision, and the Director of Personnel is responsible for the uniform and impartial application of this policy and procedure.

Personnel Policy #11 – Merit Increases

I. Purpose

To define the policy of the Town of Wellesley for evaluating the work performance of employees in the Management Pay Plan, and for recommending and granting salary increases based on merit.

II. Policy

The policy of the Town of Wellesley is to grant its management personnel salary increases for meritorious work performance on the recommendation of the employee's immediate supervisor and approval of the appropriate Board, Committee or Commission within limitations established by Town Bylaw and the Town Meeting.

III. Application

This policy applies to all employees classified in Job Group 50 and above of the Classification Plan.

IV. Procedure

In order to grant merit increases to Management Pay Plan employees, fair and equitable evaluation of performance is required. Performance evaluation must contain a systematic method of performance planning and review with consistent and uniformly applied definitions of performance levels. The Salary Plan requires a performance review for Management Pay Plan employees by the immediate superior at least once a year. Guidelines for conducting performance reviews are as follows:

1. Performance Planning Worksheet

The Performance Planning Worksheet is used to set forth job objectives/goals (End Results), measures of achievement of those goals and a definition of what will be considered competent performance based on those measures. The immediate superior and the employee jointly prepare the job objectives/goals, measures of achievement and competent performance levels based on those measures. The completed worksheet should be agreeable to and signed by the superior and the employee. It is essential to the evaluation process that End Results, measures of achievement and competent performance levels are developed which specifically relate to the employee in his/her position. See Appendix A for an example of the Performance Planning Worksheet.

2. Performance Evaluation

At the end of the performance planning period the superior will evaluate the employee's performance according to the criteria established on the Performance Planning Worksheet. The superior fills out the Performance Evaluation form, recording his rating of the employee's performance of goals and objectives. See Appendix B for an example of the Performance Evaluation form and the definition of performance levels used in rating an employee. The Performance Evaluation form should be reviewed together by the superior and the employee, and signed to indicate that the review has taken place.

The completed Performance Evaluation form should be returned to the Human Resources Department for inclusion in the employee's file. Also, it is important that the Performance Planning Worksheet for the next year be returned along with the evaluation form. It is important that superiors administer this process in a timely fashion.

3. Recommendation for Merit Increase

At the completion of the performance review, employees may receive an increase of up to 10% based upon their performance rating as recorded on the evaluation form. In determining the amount of increase to be granted, the superior must consider: 1) the overall rating of the employee's performance; and 2) the employee's standing in the salary range (where employees accelerate to the mid-point and decelerate to the maximum). Other factors which influence the determination of merit increases are potential for promotion, self-development, educational qualifications, working relations, attendance record and length of service. Recommendations for merit increases must be submitted on a Personnel Action Form, attached with the Performance Evaluation form.

4. Review and Approval by Board, Committee or Commission

Each Board, Committee or Commission is responsible for reviewing the evaluations and approving or disapproving the merit increase recommendations of their subordinates. The Board, Committee or Commission shall evaluate the individual or individuals reporting directly to them in the manner prescribed above and determine the appropriate increase to be granted.

After review of the recommendations of their staff and after considering the amount of money available for merit increases, each Board, Committee or Commission shall approve appropriate increases in accordance with the Salary Plan and this Policy and Procedure.

5. Personnel Board Responsibility

The Personnel Board shall determine and recommend to the Town Meeting an appropriation of a sum of money sufficient to grant merit increases to employees in Job Group 50 and above to maintain fair and equitable pay levels.

The Personnel Board shall provide each Board, Committee or Commission annually with guidelines to assist in the granting of the salary increase in accordance with the Salary Plan and this Procedure.

6. Director of Financial Services

The Director of Financial Services shall review the actions taken by the various Boards, Committees and Commissions and the Personnel Board and, after assuring himself said actions are in accordance with the terms of the Salary Plan and the vote of the Town Meeting shall apportion and assign the necessary funds to the appropriate personal services appropriations.

V. Enforcement

No salary increases for meritorious work performance shall be approved by the Personnel Board until all actions required by this procedure have been completed.

Personnel Policy #12 – Annual Physical Examination

I. Purpose

To define policy of the Town of Wellesley for encouraging its management employees to undergo an annual physical examination and to establish the procedure for its administration.

II. Policy

The policy for the Town of Wellesley is to encourage its management employees to maintain an awareness of their health through annual physical examinations by a physician of their choice by paying up to \$50.00 of the cost of the examination.

III. Application

This policy shall apply to all employees in the Management Pay Plan, Job Group 50 and above of the Classification Plan, who have completed one year of continuous service under the Plan.

IV. Procedure

A. The Personnel Office shall remind each management employee annually that the Town will pay up to \$50.00 of the cost of a physical examination.

B. Employees wishing to take advantage of this benefit shall make arrangements for the examination with a physician of their choice.

C. Upon the completion of the examination and receipt of the bill, the employee shall, by signing the bill for the examination, certify that he has undergone the examination and has been advised of the results.

D. Signed bills shall then be submitted to the Personnel Office where a voucher will be prepared to pay up to \$50.00 of the bill.

E. Employees desiring more extensive examinations than \$50.00 will allow, may do so. However, the employee is responsible for paying all the costs in excess of \$50.00.

V. Enforcement

The Personnel Board is responsible for reminding the employee to take the annual physical examination, and for paying the physician in accordance with this policy and procedure.

Personnel Policy #13 – Meal Allowance

I. Purpose

To define the policy of the Town of Wellesley for granting a Meal Allowance to certain Management Personnel and to establish the procedure for the administration thereof.

II. Policy

The policy of the Town of Wellesley is to provide Management Personnel who are required to work more than two (2) hours beyond the end of the regular work day or more than five (5) hours on Saturday, Sunday or a holiday with a meal allowance in order they not bear the additional expense of having to eat away from home.

III. Application

This policy applies to all employees in Job Group 50 and above of the Classification Plan except Department Heads and employees who receive overtime compensation.

IV. Definitions

Department Head: An employee responsible for the administration of a Town function or activity under the direction of an elected or appointed Board, Committee or Commission.

V. Procedure

A. To receive the meal allowance the employees must complete and sign the Meal Allowance Voucher form (Appendix A) and forward it to their superior for approval.

B. Approved vouchers shall be entered on the next departmental expense voucher for payment.

VI. Enforcement

Fraudulent or false claims for Meal Allowance are grounds for disciplinary action including discharge. Department Heads are responsible for the administration of this Policy and Procedure. The Director of Financial Services/Treasurer is responsible for making payment of the Meal Allowance Voucher.

Personnel Policy #14 – Educational Benefit Program

I. Purpose

To define the Educational Benefit Policy of the Town of Wellesley and to establish the procedure for its administration.

II. Policy

It is the policy of the Town of Wellesley to encourage employees to further their education for the purpose of improving their ability and effectiveness in their present positions and preparing them for positions of greater responsibility by reimbursing them for up to 100% of the cost of tuition and fees on the satisfactory completion of the courses of instruction taken at an institution accredited by the New England Association of Colleges and Secondary Schools.

III. Application

This policy applies to permanent full-time employees who have completed one year of continuous full-time employment, except those employees whose wages, benefits and other conditions of employment are set forth in Collective Bargaining Agreements.

IV. Definitions

- A. Permanent Full-Time Employee: An employee hired to work the full work day each work week for an indefinite period.
- B. Course of Instruction: A series of lecture or class meetings offering credit towards a degree or diploma.
- C. Department Head: An employee responsible for the administration of a function or activity under the direction of an elected or appointed Board, Committee or Commission.
- D. "Satisfactory Completion of Courses of Instruction" is defined as the receipt of a certificate, Grade C or equivalent in undergraduate courses and Grade B or equivalent in graduate courses, whichever is appropriate.

V. Procedure

- A. Eligible employees wishing to be reimbursed for tuition and fees on satisfactory completion of courses of instruction, must complete Personnel Form P-9, Educational Benefit Request, prior to registration or enrollment.
- B. Employees shall be reimbursed for tuition and fees, on satisfactory completion of courses of instruction approved in advance by the Department Head and the Personnel Board as follows:
 - 1. One hundred percent (100%) reimbursement if the content of the course is directly related to the employees' current duties and responsibilities, i.e., would provide the employee with information or knowledge that is necessary for and could improve the employee's performance in his present position.
 - 2. Fifty percent (50%) reimbursement if the content of the course is related to the employees' current duties and responsibilities and would help prepare the employee for a position of greater responsibility which the employee could reasonably be expected to achieve.
- C. Upon satisfactory completion of the courses, the employee shall forward to the Department Head, who will forward copies to the Personnel Office, all receipted bills for tuition and fees, and evidence of satisfactory completion of the courses. The Human Resources Department will certify that the requirements of the Educational Benefit Program have been met and will notify the Department Head and Town Account of approval.
- D. The Department Head will retain the receipts of tuition and fees. Upon notification of final approval by the Personnel Office, the Department Head will prepare a voucher for reimbursement of tuition and fees and attach thereto the receipts and forward it to the Town Accountant for processing.

Personnel Policy #15 – Sexual Harassment Policy

I. Introduction

It is the goal of the Town of Wellesley to promote a workplace that is free of 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. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

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

Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

II. Definition of Sexual Harassment

Sexual harassment means 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 a favorable review, 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 work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

While it's not possible to list all those additional 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;

- 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 suggesting objects, pictures, cartoons;
- Leering, whistling, brushing against the body, sexual gestures, suggesting 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.

III. Complaints of Sexual Harassment

If any of our employees believes that he or she has been subjected to sexual harassment, the employee has the right to file a complaint with our organization. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting your Department Head or the Personnel Director, Town Hall, 525 Washington Street, Wellesley, MA (617-431-1019, x244) or Town Counsel, Attorney Albert Robinson, 40 Grove Street, Wellesley, MA 02181 (617-235-3300). These persons are also available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process.

IV. Sexual Harassment Investigation

When we receive a complaint of sexual harassment we will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent consistent with a fair and full investigation and practicable under the circumstances. Our investigation will include private interviews with the person filing the complaint, and with witnesses. We will also interview the person alleged to have committed sexual harassment. When we have completed our investigation, we 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.

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

V. Disciplinary Action

If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as we deem appropriate under the circumstances.

VI. State and Federal Remedies

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 our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short period for filing a claim (EEOC: 180 days; MCAD: 6 months).

1. The United States Equal Employment Opportunity Commission (EEOC)
1 Congress Street, 10th Floor
Boston, MA 02114 (617)565-3200
2. The Massachusetts Commission Against Discrimination (MCAD)
Boston Office: Springfield Office:
1 Ashburton Place, Rm. 601 424 Dwight Street, Rm. 220
Boston, MA 02108 Springfield, MA 01103
(617) 994-6000 (413)739-2145

Personnel Policy #16 - Telecommunications

I. Purpose

To ensure the proper use of the Town of Wellesley's telecommunications systems which includes the telephones, electronic mail (e-mail), Facsimile machines and the Internet.

II. Policy

The Town of Wellesley provides staff with the ability to send messages and information through voice mail, fax mail, electronic mail (e-mail) and, in some cases, through the Internet. The purpose of this technology is to allow the Town to serve the public more effectively. Therefore, it is the Town's policy that use of these capabilities is subject to the same management oversight as any other employee activity. The telecommunication systems are the property of the Town and should be used for appropriate business purposes.

III. Procedures

Electronic Communication and Storage Systems:

1) Electronic Communication and Storage Systems are the property of the Town and should be used for business related purposes. While sending and receiving personal messages is not expressly prohibited, any personal use of the system must be at a level that will not interfere in any way with the system's ability to serve its

intended official purpose. Employees should use discretion in utilizing this resource. Abuse of this privilege could result in loss of the privilege for the individual and possibly others throughout the organization.

2) The Town reserves the right to retrieve and read any electronic communication messages or other data stored on Town owned equipment for any purpose without limitation including systems maintenance and compliance monitoring. Employees should not assume that voice mail, fax mail, e-mail messages or Internet postings are personal or confidential. Electronic communications may be discoverable even though the messages have been deleted. Subject to certain exceptions in the law, electronic communications may also be considered public records.

3) Data and messages should be treated as confidential by other employees and should be accessed only by the intended recipient. Employees are not authorized to retrieve or read any messages or data that are not sent to them unless the intended recipient gives express permission. Also, employees should not use a code, assess a file, or retrieve any stored information unless authorized to do so.

Security:

1) The telecommunications systems should not be used to create any offensive or disruptive messages or images. Among those which are considered offensive are any messages or images which contain sexual implications, racial slurs, gender-specific comments, or any other comment which might constitute intimidation, hostile or offensive material based on one's sex, race, color, national origin, age, religion, sexual orientation or physical or mental disability.

2) The telecommunications systems should not be used for any illegal activity, including, but not limited to, the transmission of copyrighted or trade secret material, the transmission of obscene, defamatory, or threatening material, or the propagation of any type of criminal activity.

3) Upon the request of the department head and subject to approval of the appropriate Board(s), monitoring of telecommunications systems usage may be necessary. Reasons for monitoring include, but are not limited to, review of employee productivity, and investigations into claims of possible criminal activity and investigations into violations of this policy.

4) Executable programs imported from other sites to Town computers must not be used unless they have been authorized by the Network and Information Systems Department and they have been subjected to virus detection procedures approved by N.I.S. The N.I.S. Department may from time to time impose additional restrictions or regulations on the importing of remote files and such restrictions or regulations shall be considered part of this policy.

5) Public record laws guarantee citizen access to governmental processes and require governmental accountability. However, they do not require unlimited access to governmental databases, or direct governmental employees to use their time responding to specialized data requests free of charge. Raw computer data and specialized analyses and reports do not fall within the traditional definition of public records. The Town has established standard and reasonable charges for such electronic products and services.

6) Electronic communication users shall not give the impression that they are representing, giving opinions, or otherwise making statements on behalf of the Town. Neither should they construct a communication so it appears to be from someone else (false identity).

IV. Enforcement

The use of the Town's telecommunication system constitutes employee consent to monitoring of systems and is conditioned upon strict adherence to this policy. Any employee who violates this policy or uses the Town's telecommunication system for improper purposes shall be subject to discipline, up to and including discharge.

Department Heads and supervisors are responsible for ensuring that all their employees using the Town's telecommunications systems have read this policy and understand its applicability to their activities. This Policy is not intended to replace day to day administrative procedures specific to each department's operational needs.

Policy on Handling Complaints Against Town Officials, Staff and Volunteers

Statement of Policy

Whenever a complaint is made against a Town official, staff or volunteer, the policy of the Town of Wellesley is to treat the matter with the utmost respect and dignity which it deserves, both for the complainant as well as the person being complained of; to ensure that the person being complained of is informed, and has an opportunity to respond at the appropriate time; to investigate the matter fully; and to come to an appropriate resolution, informing both the complainant and the person being complained of as to what that resolution is.

To implement this policy, the Human Resources Department has developed the following guidelines:

Guidelines

1. Whenever a complaint is made against a Town official, staff or volunteer, the matter shall immediately be referred to the chief administrative officer within the appropriate department. If the complaint is made in writing, that writing shall be delivered to the chief administrative person. It shall be the responsibility of the chief administrative person or Chairperson in the affected department to implement the foregoing policy from this point on (unless the chief administrative staff person has or perceives a conflict, in which case this responsibility shall be delegated to the Chairperson or Board/Committee member who has no such conflict).
2. If the complaint is first made in a public session or governmental body (Town board or official holding the meeting), the person making the complaint will immediately be requested to defer making further allegations in nature of a complaint, in order to give this policy an opportunity to be implemented (giving fair notice to the person being complained of; giving an opportunity for investigation; and so forth as referred above understatement of policy). Every Town board, particularly in such a circumstance (and particularly more so when the matter is being televised or otherwise broadcast), shall be very mindful of the inadvertent harm which can be done when a complaint is lodged and discussed out of the appropriate context.
3. The chief administrative person responsible for handling the complaint shall give notice of the complaint to the person being complained of, and schedule an opportunity for a full airing of the issue between the complainant and the person being complained of. In the meantime, the chief administrative person shall conduct such investigation as s/he deems appropriate under the circumstances.

4. At the opportunity for discussion between the complainant and the person being complained of referenced above, there shall be a full airing allowed of the complaint and the reasons behind it. Each person involved may bring to the meeting whatever additional persons or documents s/he may deem important in order to fully express his or her side of the matter.
5. The chief administrative person shall, as soon as possible, bring the complaint to a resolution. The resolution may range from sustaining the complaint, taking such appropriate action, administratively or otherwise, as the chief administrative officer shall deem appropriate; to and including dismissing the complaint as unfounded.
6. The chief administrative person shall then report such conclusion to the Town officials ultimately responsible for his or her departmental affairs. Those officials shall take such further action as they deem necessary, appropriate or expedient under the circumstances.
7. Upon being informed of the disposition reached by the chief administrative person, the complainant may request an opportunity to pursue the matter further, if displeased with the conclusion, with the governmental body in charge of the department being affected. The governmental body shall decide whether or not to entertain such a matter on its agenda. If the matter is decided to be acted upon as a part of the governmental body's agenda, the complaint shall be governed by the Open Meeting Law, and, where documents are involved, also by the Public Records Law. Advice of counsel may be sought on whether or not executive session is appropriate; and whether, if executive session may be appropriate, whether the complainant and person being complained of have the right, if not the obligation, to appear.
8. One significant reason for this policy being developed is to preclude an inadvertent blurting out of a complaint which could be damaging to a Town official, staff or volunteer, particularly if the comments are made at a meeting which is being televised or otherwise broadcast, without putting the context of the entire matter into the appropriate framework, including the giving of notice to the person being complained of, an opportunity for investigation, and the other aspects identified above. It is the policy of the Town of Wellesley to request that all Town officials implement the foregoing guidelines in order to ensure that every complaint is accorded the respect and dignity which it deserves, and by the same token, to insure that the person being complained of is equally accorded the respect and dignity to which s/he is entitled to as a Town official, staff or volunteer.
9. This policy recognizes that there are other departmental policies in existence which may be in conflict, such as the procedures applicable to the Internal Affairs Division of the Police Department. When such conflict presents itself, the departmental procedures shall be followed in lieu of this policy.

Recognition Program for Professional Staff

I. Purpose

To establish a recognition program for exempt "50 Series" employees below the level of Department Head whose positions are contained in the Town's Merit Pay Plan.

II. Policy

To provide an opportunity for Merit Pay Plan employees below the level of Department Head to receive a recognition award from the Town based on a quantifiable contribution to a project of significant impact which is beyond the scope of the duties outlined in their position description.

III. Application

This program applies to permanent, full time, Merit Pay Plan employees below the level of Department Head who have completed at least one year of continuous service.

IV. Procedure

The Recognition Program shall be administered by the Personnel Board in a fair and impartial manner. The Personnel Board shall determine which nominees will receive awards in each fiscal year as well as the maximum amount of each award, in accordance with the following procedures and subject to funding. All determinations of the Personnel Board shall be final.

- 1) Department Heads may nominate no more than two employees in a fiscal year for a recognition award with the approval of their Board or Committee. Such nomination must be made in writing to the Personnel Board no later than May 15th for an award in the current fiscal year. Supporting documentation, as described below, must be submitted with each nomination.
- 2) Employees nominated for an award under this program must have contributed such an excessive amount of time, effort, and dedication to the Town on a project of significant impact that the Department Head will be able to quantitatively justify the nomination in writing to the Personnel Board. In addition, the nominated employee's performance rating and the project outcome must be of high caliber in order to support the nomination.
- 3) Any employee who is granted an award under this Plan will not be eligible to be nominated for an award in the subsequent year.
- 4) Recognition award payments will be no greater than two weeks pay at the nominated employee's rate of pay. Any award will be a lump sum award that will not impact base pay or benefits.
- 5) Awards granted to an employee whose department is subject to enterprise funds will have all recognition awards paid by such department's funds. Departments without enterprise funds will receive awards from the appropriate line item within the Human Resources Department budget. All awards are subject to funding.
- 6) The total number of awards approved by the Personnel Board will be limited by the amount of funding available for this program but shall not exceed 10% of all covered Merit Pay Plan employees in any year.

V. Enforcement

It is incumbent upon Department Heads to support the integrity of the Town Recognition Program by submitting nominations in a fair and impartial manner based on the criteria delineated above. The Human Resources Department will provide advice and assistance to Department Heads in the nomination submission process. The Personnel Board shall be responsible for the administration of this program and granting of recognition awards. All determinations of the Personnel Board shall be final.

MCAD Guidance
PREGNANT WORKERS FAIRNESS ACT
Issued 1/23/2018

The Pregnant Workers Fairness Act (“the Act”) amends the current statute prohibiting discrimination in employment, G.L. c. 151B, §4, enforced by the Massachusetts Commission Against Discrimination (MCAD). The Act, effective on April 1, 2018, expressly prohibits employment discrimination on the basis of pregnancy and pregnancy-related conditions, such as lactation or the need to express breast milk for a nursing child. It also describes employers’ obligations to employees that are pregnant or lactating and the protections these employees are entitled to receive. Generally, employers may not treat employees or job applicants less favorably than other employees based on pregnancy or pregnancy-related conditions and have an obligation to accommodate pregnant workers.

Under the Act:

- Upon request for an accommodation, the employer has an obligation to communicate with the employee in order to determine a reasonable accommodation for the pregnancy or pregnancy-related condition. This is called an “interactive process,” and it must be done in good faith. A reasonable accommodation is a modification or adjustment that allows the employee or job applicant to perform the essential functions of the job while pregnant or experiencing a pregnancy-related condition, without undue hardship to the employer.
- An employer must accommodate conditions related to pregnancy, including post-pregnancy conditions such as the need to express breast milk for a nursing child, unless doing so would pose an undue hardship on the employer. “Undue hardship” means that providing the accommodation would cause the employer significant difficulty or expense.
- An employer cannot require a pregnant employee to accept a particular accommodation, or to begin disability or parental leave if another reasonable accommodation would enable the employee to perform the essential functions of the job without undue hardship to the employer.
- An employer cannot refuse to hire a pregnant job applicant or applicant with a pregnancy-related condition, because of the pregnancy or the pregnancy-related condition, if an applicant is capable of performing the essential functions of the position with a reasonable accommodation.
- An employer cannot deny an employment opportunity or take adverse action against an employee because of the employee’s request for or use of a reasonable accommodation for a pregnancy or pregnancy-related condition.
- An employer cannot require medical documentation about the need for an accommodation if the accommodation requested is for: (i) more frequent restroom, food or water breaks; (ii) seating; (iii) limits on lifting no more than 20 pounds; and (iv) private, non-bathroom space for expressing breast milk. An employer, may, however, request medical documentation for other accommodations.
- Employers must provide written notice to employees of the right to be free from discrimination due to pregnancy or a condition related to pregnancy, including the right to reasonable accommodations for conditions related to pregnancy, in a handbook, pamphlet, or other means of notice no later than April 1, 2018.

- Employers must also provide written notice of employees' rights under the Act: (1) to new employees at or prior to the start of employment; and (2) to an employee who notifies the employer of a pregnancy or a pregnancy-related condition, no more than 10 days after such notification.

The foregoing is a synopsis of the requirements under the Act, and both employees and employers are encouraged to read the full text of the law available on the General Court's website here:

<https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter54>.

If you believe you have been discriminated against on the basis of pregnancy or a pregnancy-related condition, you may file a formal complaint with the MCAD. You may also have the right to file a complaint with the Equal Employment Opportunity Commission if the conduct violates the Pregnancy Discrimination Act, which amended Title VII of the Civil Rights Act of 1964. Both agencies require the formal complaint to be filed within 300 days of the discriminatory act.

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