



TOWN OF STOW

HARASSMENT AND SEXUAL HARASSMENT

POLICY

Adopted by the Board of Selectmen on January 12, 2021

POLICY

It is the goal of the Town of Stow ("Town") to promote a workplace that is free of discriminatory harassment ("harassment") of any type, including sexual harassment. Discriminatory harassment consists of any unwelcome conduct that is personally offensive, whether verbal or physical, which is based on a characteristic protected by law and which otherwise fails to respect the rights of others. All Town employees are responsible for insuring that the work place is free from all forms of harassment. This policy applies to all employees and officers of the Town. Supervisory and managerial employees must not condone acts of harassment by their subordinate employees, by other Town employees, by regular visitors to Town offices, or by employees of our vendors and contractors. 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. Retaliation against persons complaining about harassment or sexual harassment, or retaliation against individuals for cooperating with an investigation of a harassment complaint, is also unlawful and prohibited by this policy. Harassment in retaliation for formal or informal participation in filing an internal or external complaint of discrimination, or otherwise raising a concern regarding discrimination, will also not be tolerated.

HARASSMENT DEFINED

1. Harassment in General. Harassment is unwelcome verbal or physical conduct, directed at an individual based upon age, race, color, national origin, sex, religion, sexual orientation, genetics, active military or veteran status, ancestry, handicap (disability) or participation in discrimination complaint-related activities which disrupts or interferes with another's work performance, or which creates an intimidating, offensive, or hostile environment.
2. Examples of Harassment. Harassment includes the use of insulting epithets, slurs, derogatory comments, or nicknames; the display of insulting or offensive objects, cartoons, pictures, slogans, demeaning gestures or symbols; intimidation through physical violence or threats of violence; and preferential treatment of certain employees based on membership in a particular class.
3. Sexual Harassment. In Massachusetts, the legal definition for sexual harassment is this:

"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 the individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating or humiliating to any person may also constitute sexual harassment.

4. Examples of Sexual Harassment. Sexual harassment is a type of harassment, which refers to any unwelcome sexual attention, sexual advances, requests for sexual favors, and other unwelcome sexual verbal, visual, or physical conduct to which an individual may be subjected. While it is 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:

- Unwelcome sexual advances – whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comments on an individual's body, comments about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences; and
- Discussion of one's sexual activities.

5. Dispelling common myths about harassers and victims:

Contrary to popular belief, sexual harassment is not limited to prohibited behavior by a male employee toward a female employee or by a supervisory employee toward a nonsupervisory employee. Sexual harassment can be found in any of the following less "traditional" situations:

1. A man as well as a woman may be a victim of sexual harassment, and a woman as well as a man may be the harasser.
2. The harasser does not have to be the victim's supervisor. He or she may be a

supervisory employee who does not directly supervise the victim, a co-worker, or in some circumstances, a non-employee such as a member of the public who uses Town facilities.

3. The victim does not have to be the opposite sex of the harasser.
4. The victim does not have to be the person at whom the unwelcome sexual conduct is directed; the victim may be someone who is affected by such conduct even though it is directed by another person. For example, the sexual harassment of one employee may create an intimidating, hostile, humiliating, or offensive work environment for a coworker, or may interfere with the coworker's work performance. In addition, consensual sexual behavior in the office between two employees may be offensive to a third employee or result in favoritism that harms the third employee.
5. Sexual harassment does not depend on the victim's suffering an economic injury, such as losing a promotion, as a result of the harasser's conduct. As the examples of improper conduct listed above show, sexual harassment can occur whenever unwelcome conduct of a sexual nature creates an intimidating, hostile, humiliating, or offensive work environment.

PREVENTION OF HARASSMENT

Supervisors and co-workers can avoid harassing behavior by treating the workplace as a professional environment and by using common sense. If any employee or manager would not feel comfortable making or hearing a particular comment about a family member, a friend or any individual of their own race, national origin, religion, etc., the employee or manager should not make the comment in question to another person.

Prevention efforts include, but are not limited to: informing employees of this policy on an annual basis, training employees regularly, communicating the sanctions imposed for violating this policy, and providing a reporting hierarchy within which to report incidents of harassment without fear of reprisal. Because the Town of Stow takes allegations of harassment seriously, the Town will respond promptly to complaints of harassment. Where it is determined that inappropriate conduct has occurred, the Town will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

EMPLOYEE RESPONSIBILITIES

Each employee of the Town of Stow is personally responsible for ensuring that his or her conduct does not sexually harass any other employee or non-employee in the workplace. Each employee is responsible for cooperating in any investigation of alleged sexual harassment if requested to do so by the person conducting the investigation.

SUPERVISOR AND MANAGER RESPONSIBILITIES

It is the responsibility of each supervisor and manager to strictly enforce the terms of this policy. Supervisors, managers, or Department Heads who become aware of incidents of

sexual harassment in their departments, even in the absence of a formal complaint, should take appropriate actions to eliminate the conduct. Supervisors and managers may seek further information and guidance from the Human Resources Department.

PERSONS COVERED

This policy prohibits harassment by, or directed to, all employees (including but not limited to non-supervisory, supervisory, management and executive personnel), volunteers, applicants for employment, contractors for the Town, visitors and all others on Town property.

WAYS OF DEALING WITH HARASSMENT

Self-help

If an individual believes that he or she is being sexually harassed, the most immediate goal is to stop the offensive conduct. Individuals should:

- Promptly and firmly confront whoever is doing the harassing.
- State that their conduct offends, intimidates, and/or embarrasses you.
- Describe how the harassment negatively affects your work.
- Request that he or she stop the conduct immediately.
- Say things like: "Please don't touch me. I don't like it. It makes me uncomfortable." "I don't think jokes like that are funny. Please don't tell them when I am in the room." "I'd like it a lot better if you'd comment on the quality of my work rather than on the way I look.", "My name is _____, not 'honey'."

If practical, bring a witness with you for this discussion. After the discussion, write a summary of the conversation, including the date and name of anyone who accompanied you.

In all instances where an individual believes that he or she has been sexually harassed, it is helpful, but not necessary, to write down a description of the offensive conduct, the date or dates on which it took place, and the names of anyone who witnessed the conduct or heard offensive remarks.

Seeking Guidance

In some instances, confronting the harasser directly may be too intimidating or uncomfortable, particularly when the harasser is an immediate supervisor. An individual who wants to discuss their situation may contact the Town Administrator for more information about sexual harassment and the complaint procedure in order to decide whether to make a complaint.

Formal Complaint

1. An individual who believes that they have been subjected to sexual harassment has a right to file a formal complaint with his/her supervisor or, if appropriate, the Town Administrator. This may be done orally or in writing. The supervisor and/or the Town

Administrator will conduct an investigation in a fair and expeditious manner.

2. A complaint may be made verbally or in writing. The Town may require that a verbal complaint be reduced to writing with the assistance of the Town Administrator, or other person designated by the Town.
3. Any supervisor, manager or other employee who becomes aware of harassment prohibited by this policy must report it **immediately** to the Town Administrator, or other person designated by the Town.

INVESTIGATION

1. All complaints of harassment will be investigated promptly and impartially by the Town Administrator or by another qualified individual selected by the Town Administrator, including but not limited to the Selectmen, Police Chief, Town Counsel, or outside parties.
2. An individual conducting an investigation into a complaint of harassment will keep information confidential to the extent possible without compromising the investigation, and disseminate it on a “need to know” basis only. Others involved in the investigation in any capacity must also respect the privacy of those involved by keeping information learned during the course of the investigation confidential.
3. Ordinarily, as circumstances permit, the Town’s investigation will include private interviews with appropriate individuals, such as the complainant, the employee alleged to have committed harassment, and with witnesses, if any.
4. As soon as practicable after the completion of the investigation, the official responsible for conducting the investigation will, to the extent appropriate, advise the employee who brought the harassment complaint and the employee accused of harassment of the results of the investigation.
5. If either employee is dissatisfied with the handling or result of the investigation, the employee should bring the matter immediately to the Town Administrator, preferably in writing, stating the reasons for that dissatisfaction.

CORRECTIVE ACTION

In the event that allegations of harassment are substantiated after investigation, the Town will take prompt and effective action to ensure that the offending conduct has ceased and, if necessary under the circumstances, will implement affirmative measures to ensure that such conduct does not recur. Additionally, persons found to have engaged in harassment prohibited by this policy will be subject to disciplinary action up to and including discharge from employment. This policy shall not limit the authority of the Town to take disciplinary action against an employee who engages in inappropriate conduct, regardless of whether it satisfies the definition of harassment or sexual harassment under this policy.

RETALIATION PROHIBITED

No one who brings a harassment complaint in good faith will be subject to any adverse employment action for doing so, regardless of whether the complaint is ultimately determined to have merit. Any employee, including supervisors and managers, who retaliate against an employee for making a complaint of harassment will be subject to disciplinary action, which may include termination of employment. Retaliation should be reported to the Town Administrator using the procedure set forth in this policy for complaints of harassment.

Employees should be aware that knowingly making false accusations will be considered misconduct, and could subject the employee to civil suit by the target of the false accusations.

APPEALS PROCESS

Employees who believe they have been unfairly disciplined may appeal the decision to the Town Administrator. This request for review must be put in writing to the Town Administrator, and must be received within one calendar week of the Department Head's decision. If an employee is appealing a decision made by the Town Administrator, they may appeal the decision to the Board of Selectmen, and must be received within one calendar week of the Town Administrator's decision.

UNION GRIEVANCES

Town employees who are union members may elect to file a grievance under their collective bargaining agreement.

STATE AND FEDERAL REMEDIES

In addition to the above, if you believe you have been subjected to harassment of any type, 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 these agencies requires that claims be filed within 300 days from the alleged incident or of when the complainant became aware of the incident.

A. The United States Equal Employment Opportunity Commission ("EEOC")

One Congress Street, 10th Floor
Boston, MA 02114
(617) 565 -3200

B. The Massachusetts Commission Against Discrimination ("MCAD")

Boston Office:
One Ashburton Place, Room 601
Boston, MA 02108

Springfield Office:
424 Dwight Street, Room 220
Springfield, MA 01103

(617) 994-6000

(413) 739 – 2145

Employees are also encouraged to call the Town's Employee Assistance Program ("EAP"), a confidential counseling service offered to employees and their immediate family members.

The EAP may be accessed by calling 1-800-451-1834 and is available 24 hours a day, 7 days a week.



Town of Stow

*380 Great Road
Stow, MA 01775*

HARASSMENT AND SEXUAL HARASSMENT POLICY Acknowledgement of Receipt

Print Name: _____

Department: _____

Job Title: _____

By signing my name below, I am acknowledging that I have received, read, had the opportunity to ask questions about, and have been advised that I am responsible for complying with the Town of Stow's *Harassment and Sexual Harassment Policy*. I understand this signature sheet will be placed in my personnel file.

I understand that I will be held responsible for complying with the provisions of this policy and understand that any actions which are found to violate the terms of this policy may result in disciplinary action*, up to and including termination of employment.

Employee's Signature: _____ Date: _____

** This policy is applicable to all employees of the Town of Stow.
For those employees covered by Collective Bargaining Agreements, the provisions of the CBA, which are subject to negotiation prevail over the language in this policy (i.e. discipline).*