

## **TOWN OF ABINGTON POLICY AGAINST HARASSMENT**

### **PURPOSE:**

The Town of Abington is committed to maintaining a working environment that is free from sexual harassment and other types of harassment. The Town of Abington's commitment begins with the recognition and acknowledgment that such harassment is unlawful and will not be tolerated by this Town. To that end, the Board has adopted a policy against harassment which includes a reporting procedure for employees who have been subjected to or witnessed harassment. This policy applies to all work related settings, activities, and property (e.g. telephones, copy machines, facsimile machines, computers, and computer applications such as e-mail and Internet access).

While this Policy sets forth our goals of promoting a workplace that is free of harassment, this Policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether such conduct is considered harassment as described in sections 1. and 2. below.

This Policy covers conduct between male/female, female/male, and members of the same sex.

### **1. DEFINITION AND SCOPE OF SEXUAL HARASSMENT:**

- 1.1 "Sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
- 1.2 Examples of behavior that the Town of Abington may consider as sexual harassment include, but are not limited to, the following:
- Any sexual advance or touching that is deemed by the recipient to be unwelcome.
  - Unwelcome sexually oriented comments about the body, appearance or life-style of an individual.
  - Offensive non-verbal behavior such as leering or staring which is deemed by the recipient to be unwelcome.

- Showing or displaying sexually explicit graphics, cartoons, pictures, photographs or objects in the workplace.
  - Statements or threats which imply a link or could be reasonably construed to imply a link between an employee's sexual conduct and his or her employment status, advancement potential, salary treatment or other employment action.
- 1.3 No supervisor will engage in or condone any act of sexual harassment as defined in paragraph 1.1 above.
- 1.4 No employee will engage in or condone any act of sexual harassment as defined in paragraph 1.1 above.
- 1.5 The Town of Abington will take appropriate measures to protect Town of Abington employees from being sexually harassed by non-employees. Toward that end, an employee may without fear of reprisal refuse to work in association with a non-employee if the following conditions apply: (1) such non-employee has been determined by an investigation to have engaged in sexual harassment toward the employee; (2) the employee alleges that the non-employee has continued to harass the employee, despite the remedial measures taken; and (3) the employee has notified the supervisor, Department Head, or the Town Manager of the alleged, continuing harassment. As determined by the Town Manager in consultation with the supervisor, the employee may be separated temporarily from the non-employee while the full investigation is conducted.

**2. OTHER TYPES OF HARASSMENT:**

- 2.1 It is also against the Town's policy to engage in verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, gender, religion, sexual orientation, age, national origin, disability, or other legally protected category: (1) has the purpose or effect of creating an intimidating, hostile, humiliating, or offensive working environment; (2) has the purpose or effect of unreasonably interfering with an individual's work performance; or (3) otherwise adversely affects an individual's employment opportunities.
- 2.2 Depending on the circumstances, the following are examples of behavior that may be considered to be harassment:
- Epithets, slurs, negative stereotyping, jokes, or threatening, intimidating, or hostile acts that relate to race, color, gender, religion, sexual orientation, age, national origin, or disability.
  - Written or graphic material that denigrates or shows hostility toward an individual or group because of race, color, gender, religion, sexual orientation, age, national origin, or disability and that is circulated in the workplace, or

placed on an employee's desk or workspace, on Town premises, equipment or bulletin boards.

- Other conduct may also constitute discriminatory harassment if it falls within the definition of discriminatory harassment set forth above.

- 2.3 It is against the Town's policy to retaliate against an employee for filing a complaint of harassment.
- 2.4 No supervisor will engage in or condone any act of harassment as defined in paragraph 2.1 above.
- 2.5 No employee will engage in or condone any act of harassment as defined in paragraph 2.1 above.
- 2.6 The Town will take appropriate measures to protect Town employees from being harassed by non-employees. Toward that end, an employee may without fear of reprisal refuse to work in association with a non-employee if the following conditions apply: (1) such non-employee has been determined by an investigation to have engaged in harassment toward the employee; (2) the employee alleges that the non-employee has continued to harass the employee, despite the remedial measures taken; and (3) the employee has notified the supervisor, Department Head, or Town Manager of the alleged, continuing harassment. As determined by the Town Manager in consultation with the supervisor, the employee may be separated temporarily from the non-employee while the full investigation is conducted.

### **3. PROCEDURES FOR REPORTING HARASSMENT:**

- 3.1 Employees are encouraged to report allegations of harassment as soon as possible after their occurrence to their supervisor, their Department Head, or the Town Manager.
  - (A) If the employee's supervisor is involved in the incident, an employee should report the incident to his/her Department Head or directly to the Town Manager.
  - (B) If the Department Head is involved in the incident of harassment, an employee should report the incident directly to the Town Manager.
  - (C) An employee always has the option to report the incident directly to the Town Manager.
- 3.2 When an allegation of a violation of this Policy is brought to a supervisor's attention by an employee, the supervisor shall immediately report the allegation to the Department Head; provided, however, if the Department Head is involved in the incident, the supervisor shall immediately report the allegation to the Town

Manager. When an allegation is brought to the Department Head's attention, the Department Head shall immediately report the allegation to the Town Manager.

3.3 Complaints can be filed in person at the Town Manager's office, mailed to the Town Manager's office, or initiated with a phone call from the employee alleging harassment followed by a subsequently signed statement of the complaint.

3.4 The Town Manager is available to answer general questions about this Policy and its implementation. Employees' general questions will be kept confidential to the extent possible, as determined by the Town Manager. The Town Manager shall investigate specific identifiable instances of harassment which come to his/her attention.

#### **4. PROCEDURES FOR INVESTIGATING HARASSMENT COMPLAINTS FILED WITH THE TOWN MANAGER:**

4.1 Harassment complaints filed pursuant to section 3.3 above shall be investigated by the Town Manager. All investigations of such complaints will be undertaken at the direction of the Town Manager in order to ensure appropriate and prompt investigation of all complaints.

4.2 Once a complaint has been filed, the complaint shall be logged in.

4.3 Each employee shall cooperate in the investigation of a complaint of harassment. Witnesses and relevant parties may be asked to sign written statements of their accounts. The Town of Abington shall not retaliate against any employee for cooperating in an investigation of a complaint.

4.4 Employees shall not knowingly provide or make an untrue statement of fact regarding a complaint of harassment or knowingly withhold a material fact concerning a complaint or the investigation thereof. Disciplinary action may occur for any infraction thereof.

4.5 To the extent possible, as determined by the Town of Abington, the confidentiality of both the complainant and the individual named in the complaint shall be maintained. However, the Town has a responsibility to investigate charges of harassment, and such investigation includes interviewing the individual charged in the complaint and/or witnesses. Therefore, in order to conduct a proper investigation, the Town Manager may disclose the name of the complainant and parties involved to the extent that such disclosure is deemed necessary or appropriate. Each person interviewed during the investigation will be instructed to keep the investigation confidential in the interest of all parties involved.

4.6 The Town Manager ordinarily will meet with the alleged harasser to inform him/her of the complaint and to provide him/her the opportunity to respond to the

complaint. The alleged harasser shall have the opportunity to provide additional information to the Town Manager.

- 4.7 The Town Manager shall use his/her best efforts to conclude the investigation within six (6) weeks of the date of the initial interview of the complainant barring unforeseen circumstances and depending on the complexity of the issues in the allegation. In this process, the investigator shall interview relevant parties, examine appropriate documents, and gather other essential information relevant to the complaint.
- 4.8 At the conclusion of its investigation, the Town Manager may summarize its findings and any recommendations pursuant to the findings in writing and may communicate such recommendations to the complainant and the person charged in the complaint, as appropriate. All disciplinary actions shall be in accordance with established Town of Abington by-laws concerning personnel policies and procedures and applicable collective bargaining agreements.
- 4.9 If the allegation of harassment is found to be unsubstantiated, the matter shall be closed and no disciplinary action will be taken against the alleged harasser or the complainant with respect to the harassment allegations identified in the complaint.
- 4.10 At any time during the complaint process, the complainant can file a formal complaint with the appropriate federal and state agency or court of law in order to protect his/her rights, as described below. The Town Manager may continue investigating the complaint to preserve the facts as they are best known of the complaint and may take other such actions it deems appropriate.
  - (A) The Massachusetts Commission Against Discrimination ("MCAD") is the state agency charged with enforcing the state law concerning harassment. An employee may file a complaint with MCAD by calling 617/767-3990. The offices of MCAD are located at One Ashburton Place, 6<sup>th</sup> Floor, Boston, MA 02108.
  - (B) The Equal Employment Opportunity Commission ("EEOC") is the federal agency charged with enforcing the federal law concerning harassment. An employee may file a complaint with EEOC by calling 617/565-5200. The Boston offices of EEOC are located at John F. Kennedy Federal Building, Suite 475, Government Center, Boston, MA 02203
- 4.11 At any time during the complaint process, the complainant who is a member of a union may file a union grievance under the union grievance procedure on the same or similar issues in order to protect his/her rights. Filing a complaint under the union grievance procedure will not jeopardize the complainant's right to use this Policy's procedure. The Town Manager shall continue investigating the complaint to preserve the facts as they are best known keeping in mind the time sensitivity of the complaint; however, the Town Manager shall suspend making a

final finding of fact and recommendation until the union grievance has been completed. Complaints by employees represented by a recognized bargaining unit shall be handled in accordance with the terms of the respective collective bargaining agreement, if applicable.

**5. APPEAL PROCESS:**

- 5.1 After the investigation is concluded by the Town Manager, each party (complainant and the individual named in the complaint) shall have the opportunity to appeal the findings.
- 5.2 If a party wishes to appeal, he/she may submit a written statement outlining the objections to the findings to the Board of Selectmen within seven (7) working days of the conclusion of the investigation. The Board of Selectmen shall notify the appealing party in writing of its decision on the matter appealed.
- 5.3 If the appeal is denied by the Board of Selectmen or its designee, the appealing party's appeal letter shall be placed in the Town Manager's file along with documentation of the Board of Selectmen or its designee's written denial of the appeal.

**6. PENALTY FOR VIOLATION OF HARASSMENT POLICY:**

- 6.1 Any employee who has been found to have committed an act of harassment will be subject to disciplinary action in accordance with the Town of Abington's personnel policies and procedures and applicable collective bargaining agreements, up to and including discharge from employment. In addition, the harasser may be required to participate in appropriate training or counseling as part of the disciplinary process.
- 6.2 If an employee has been found to have engaged in any form of harassment, a record of said violation shall be placed in the employee's personnel file.

**7. EDUCATING EMPLOYEES REGARDING SEXUAL HARASSMENT**

- 7.1 The Town of Abington provides education about harassment as part of its employee orientation program to ensure that each employee's conduct complies with the standard of personal conduct set forth in the Town's policy.

Town of Abington

Policy Against Harassment  
Employee Confirmation of Receipt

I certify that I have been given a copy of this policy and that I have fully read the policy.

\_\_\_\_\_  
Employee Name

\_\_\_\_\_  
Employee Signature and date

Copy of this page to Personnel file on \_\_\_\_\_  
Date