

## **Town of Phillipston Discriminatory Harassment Policy**

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### **I. Introduction**

It is the goal of the Town of Phillipston to promote a workplace that is free of discriminatory harassment (“harassment”) of any type, including sexual harassment. Discriminatory harassment consists of unwelcome conduct, whether verbal or physical, that is based on a characteristic protected by law, such as gender, gender identity and expression, race, color, national origin, ancestry, religion, age, disability, genetics, military status, sexual orientation, or participation in discrimination complaint-related activities (retaliation). The Town of Phillipston will not tolerate harassing conduct that affects employment conditions, that interferes unreasonably with an individual’s performance, or that creates an intimidating, hostile, or offensive work environment.

Harassment of employees occurring in the workplace, in connection with work-related travel, and/or work sponsored events will not be tolerated. Further, any retaliation against an individual who has complained about harassment or retaliation against individuals for cooperating with an investigation of a harassment complaint is similarly unlawful and will not be tolerated.

Because the Town of Phillipston takes allegations of harassment seriously, we will respond promptly to complaints of harassment. Where it is determined that 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 harassment, the 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 that conduct satisfies the definition of harassment.

### **II. Definitions**

“Harassment” means unwelcome conduct whether verbal or physical, that is based on a characteristic protected by law. Harassment includes, but is not limited to:

1. Display or circulation of written materials or pictures that are degrading to a person or group as previously described, including items from social media.
2. Verbal abuse, slurs, derogatory comments or insults about, directed at, or made in the presence of an individual or group as previously described.

“Quid pro quo” means a favor or advantage granted or expected in return for something. Quid pro quo harassment is the most commonly recognized form of sexual harassment. It occurs when:

1. Job benefits, including employment, promotion, salary increases, shift or work assignments, performance expectations and other conditions of employment, are made contingent on the provision of sexual favors, usually to an employer, supervisor or agent of the employer who has authority to make decisions about employment actions, or
2. The rejection of a sexual advance or request for sexual favors results in a tangible employment detriment, a loss of a job benefit of the kind described above.

“Sexual harassment” means 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 the 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 working 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 definition of sexual harassment is broad. In addition to the above examples, other unwelcome sexually oriented conduct, whether intended or not, that has the effect of creating a work environment that is hostile, offensive, intimidating or humiliating to either male or female workers may also constitute sexual harassment.

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; comment on an individual’s body, comment 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.

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 by the Town of Phillipston.

### **III. Complaint Procedures**

All employees, managers, and supervisors of the Town of Phillipston share responsibility of avoiding, discouraging and reporting any form of discriminatory harassment. The primary responsibility for ensuring proper investigation and resolution of harassment complaints rests with the Chief Administrative Officer or his/her designee, who will administer the policy and procedures described herein.

If any of our employees believe that he or she has been subjected to discriminatory harassment, the employee has the right to file a complaint with the Town of Phillipston. This may be done in writing or orally. Oral statements will be reduced to writing by staff, and shared with the complainant who will be asked to verify the statement. In addition, residents, visitors, applicants, vendors, contractors, their agents and employees, or other third parties who believe they have been subjected to discriminatory harassment may also file a complaint with the Town of Phillipston using the procedures described herein. Furthermore, employees may also file a complaint if they have been subjected to harassment from residents, visitors, applicants, vendors, contractors, their agents and employees, or any other third parties in the workplace, while performing work-related duties, or during other work-related activities.

Prompt reporting of harassment is in the best interest of the Town of Phillipston and is essential to a fair, timely, and thorough investigation. Accordingly, complaints should be filed as soon as possible following the incident (s) at issue. If you would like to file a complaint you may do so by contacting the Chief Administrative Officer. S/he is available to discuss any concerns you may have and to provide information to you about our policy on harassment and our complaint process.

#### **IV. Complaint Investigation**

When we receive the complaint we will promptly investigate the allegation in a fair and expeditious manner to determine whether there has been a violation of our policy. The investigation will be conducted in such a way as to maintain confidentiality to the extent 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 harassment. The complainant, the person alleged to have committed harassment, and all witnesses are required to fully cooperate with all aspects of an investigation.

Notwithstanding any provision of this policy, we reserve the right to investigate and take action on our own initiative in response to behavior and conduct which may constitute harassment or otherwise be inappropriate, regardless of whether an actual complaint has been filed.

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 discriminatory harassment of any type, including 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 requires that claims be filed within 300 days from the alleged incident or when the complainant became aware of the incidents.

**The United State Equal Employment Opportunity Commission (“EEOC”)**

John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203  
(800) 669-4000

**The Massachusetts Commission Against Discrimination (“MCAD”)**

Boston Office:  
One Ashburton Place,  
Sixth Floor, Room 601  
Boston, MA 02108  
(617) 994-6000

New Bedford Office:  
800 Purchase Street, Room 501  
New Bedford, MA 02740  
(508) 990-2390

Springfield Office:  
436 Dwight Street,  
Second Floor, Room 220  
Springfield, MA 01103  
(413) 739-2145

Worcester Office:  
Worcester City Hall  
455 Main Street, Room 101  
Worcester, MA 01608  
(508) 799-8010

*Approved by the Selectboard February 27, 2019*