

# **TOWN OF FAIRHAVEN**

## **POLICY AGAINST UNLAWFUL HARASSMENT, SEXUAL HARASSMENT, AND DISCRIMINATION**

### **Policy Statement:**

It is the goal of the Town of Fairhaven to promote a workplace that is free of unlawful harassment, sexual harassment, and/or discrimination in any form. The Town will not tolerate unlawful harassment, sexual harassment, and/or discrimination of employees occurring in the workplace, or in other settings in which employees may find themselves in connection with their employment. Further, any retaliation against an individual who has complained about unlawful harassment, sexual harassment, and/or discrimination, or retaliation against individuals for cooperating with an investigation of an unlawful harassment, sexual harassment, and/or discrimination complaint is similarly unlawful and will not be tolerated.

Employees are protected from harassment and discrimination on the basis of their race, color, religion, national origin, ancestry, sex, age, handicap (disability), participation in discrimination complaint-related activities, sexual orientation, gender identity, genetics, or active military or veteran status. Prohibited behavior includes slurs or other derogatory comments, objects, pictures, cartoons, or demeaning gestures connected to one's membership in a protected group.

To achieve our goal of providing a workplace free from unlawful harassment, sexual harassment, and/or discrimination, the conduct that is described in this policy will not be tolerated. Because the Town of Fairhaven takes allegations of unlawful harassment, sexual harassment, and/or discrimination seriously, we will respond promptly to complaints of this type of conduct 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 up to and including termination.

This policy shall apply to all employees, appointees, elected officials and volunteers of the Town of Fairhaven. Any individual violating this policy shall be subject to appropriate discipline.

Please note that while this policy sets forth our goals of promoting a workplace that is free of unlawful harassment, sexual harassment, and/or discrimination, 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 unlawful harassment, sexual harassment, and/or discrimination.

### **Definitions:**

1. Discrimination: Discrimination is any decision that is made or action taken that is motivated by a bias because of an employee's:

- Age
- Disability
- Gender

- Gender Identity/Expression
- Genetics
- Military Status
- National Origin or Ancestry
- Race or Color
- Religion
- Retaliation
- Sexual Orientation

2. Harassment: Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.

Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.

Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
- The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.
- Unlawful harassment may occur without economic injury to, or discharge of, the victim.

3. Sexual Harassment: Sexual Harassment is specifically defined in Massachusetts law and 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 reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad. 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 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.

### **Applicability of Policy**

It violates the policy of the Town of Fairhaven for any employee, male or female, to discriminate against and/or unlawfully harass another employee. Further, it is against the policy for an employee to discriminate against and/or unlawfully harass a non-employee and likewise for a non-employee to discriminate against and/or unlawfully harass an employee, provided the incident occurs in the workplace and within the jurisdiction of the Town.

The Town expressly prohibits any form of retaliatory action against an employee for filing a complaint of unlawful harassment and/or discrimination and for cooperating in an investigation of such a complaint.

## **Reporting and Investigation of Unlawful Harassment, Sexual Harassment, and/or Discrimination**

The Town of Fairhaven encourages employees who believe they are being unlawfully harassed, and/or sexually harassed to firmly and promptly advise the actor that his or her behavior is offense and/or unwelcome. The Town recognizes that in some instances such informal communications may be uncomfortable and/or ineffective. Therefore, the Town also has additional or alternative avenues of addressing concerns as follows: If an employee believes that he or she is subject to unlawful harassment, sexual harassment, and/or discrimination of any type, he/she should report it immediately orally, or in writing to the Town Administrator at:

Mr. Mark Rees, Town Administrator  
Fairhaven Town Hall  
40 Center Street  
Fairhaven, MA 02719  
(508)- 979-4023, x 2

If an employee so chooses, due to the identity of the alleged offender and/or the circumstances of the alleged offenses, the employee has the option of making any report allegations of unlawful harassment, sexual harassment and/or discrimination to Ms. Anne O'Brien, Assistant to the Town Administrator.

All complaints will be investigated promptly under the direction of the Office of the Town Administrator. When the complaint is received 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 practicable under the circumstances.

All information disclosed in the investigation will be held in the strictest confidence and will only be disclosed on a need-to-know basis in order to investigate and resolve the matter. Our investigation will include a private interview with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed unlawful harassment, sexual harassment, and/or discrimination. 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. Where it is appropriate, we will also impose disciplinary action up to and including termination.

### **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, up to and including termination from employment, and may include other forms of disciplinary action as we deem appropriate under the circumstances. In the event that

inappropriate conduct has been committed by an appointed official or volunteer of the Town, the Town reserves the right to vacate such appointment and/or end volunteer status.

**TOWN OF FAIRHAVEN**  
**UNLAWFUL HARASSMENT, SEXUAL HARASSMENT**  
**AND DISCRIMINATION COMPLAINT FORM**

**COMPLAINANT'S REPORT**

Complainant's Name: \_\_\_\_\_

Complainant's Position/Department: \_\_\_\_\_

Alleged Offender's Name: \_\_\_\_\_

Alleged Offender's Position/Department: \_\_\_\_\_

Date and Time of Alleged Incident: \_\_\_\_\_

Nature of Alleged Incident: (Include a description of what happened, any relevant details to the incident, etc.)

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Name and Position of Any Witnesses to Alleged Incident: \_\_\_\_\_

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Is this the first time the alleged incident has been reported? (circle one) Yes No

If no, when and to whom was the alleged incident reported? \_\_\_\_\_

Please attach additional information if needed.

\_\_\_\_\_  
Complainant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Received By, Title

\_\_\_\_\_  
Date

**TOWN OF FAIRHAVEN**

**UNLAWFUL HARASSMENT, SEXUAL HARASSMENT  
AND DISCRIMINATION POLICY**

**EMPLOYEE ACKNOWLEDGEMENT OF RECEIPT**

I, \_\_\_\_\_, hereby acknowledge receipt of the  
Town of Fairhaven Policy Against Unlawful Harassment, Sexual Harassment and Discrimination  
on the date set forth below.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

Please keep the attached document for your files and return this sheet to the Human Resources  
Department.

cc: Personnel File