



**Town of Burlington
29 Center Street
Burlington, MA 01803**

ANTI-HARASSMENT POLICY
(Adopted 1/13/97)

4.7A *Anti-Harassment Policy* (replaced 4.7 Anti-Harassment Policy)

4.7A-1 Policy

The Town shall not allow any form of harassment or any such conduct that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, where such conduct is related to an individual's membership in a protected class, as defined by Massachusetts General Laws c. 151B, Section 4(1) & 1(C), as well as under 29 U.S.C. Section 623 and 42 U.S.C. Section 2000e-2. Some examples of prohibited conduct would include conduct based upon an individual's race, religion, or national origin. This prohibition includes both physical and verbal conduct. To the extent that the conduct at issue involves alleged sexual harassment, such claims are addressed in the Town's Sexual Harassment Policy.

4.7A-2 Role of Town Administrator and Department Heads

The Town Administrator and Department Heads shall be pro-active in efforts to identify and eliminate any actions, conduct or behavior, which is intended to create, or results in the creation of an intimidating, hostile or offensive work environment.

4.7A-3 Investigation and Identification of Possible Harassment.

Upon notice or identification of possible harassment as defined in Section 4.7-1 above, the Town Administrator or his/her designee shall immediately investigate any alleged harassment, pursuant to the investigation procedures contained in the Town's Sexual Harassment Policy. Any harassment, including sexual harassment, shall be considered a violation of these personnel rules and regulations and may be cause for disciplinary action.

SEXUAL HARASSMENT POLICY

(Adopted 1/13/97)

4.7B SEXUAL HARASSMENT POLICY

4.7B-1 Introduction

It is the goal of the Town of Burlington 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 by the Town. 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 the Town's goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and there follows a procedure by which inappropriate conduct will be dealt with if encountered by employees.

Because the Town of Burlington takes allegations of sexual harassment seriously, the Town will respond promptly to complaints of sexual harassment and where it is determined that such 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.

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

4.7B-2 Definition of 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 an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, the following conduct would constitute sexual harassment:

- Unwelcome sexual advances - whether they involve physical touching or not;
- Direct or implied requests for sexual favors in exchange for actual or promised job benefits such as favorable performance reviews, salary increases, promotions, increased benefits, or continued employment; and
- Assault or coerced sexual acts.

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 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:

- 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 experience; 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.

4.7B-3 Complaints of Sexual Harassment

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

If you would like to file a complaint you may do so by contacting the Town Administrator at Town Hall (270-1635) or the Human Resources Director at Town Hall (270-1774). These persons and/or their designees are also available to discuss any concerns you may have and to provide information to you about the Town's policy on sexual harassment and the complaint process.

4.7B-4 Sexual Harassment Investigation

When a complaint is received, the allegation will be promptly investigated 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. The investigation will include a private interview with the person filing the complaint and with witnesses. It will also include an interview with the person alleged to have committed sexual harassment. When the investigation has been completed to the extent appropriate, the person filing the complaint and the person alleged to have committed the conduct would, to the extent appropriate, be informed of the results of that investigation.

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

4.7B-5 Disciplinary Action

If it is determined an employee has committed that inappropriate conduct, the Town 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 deemed appropriate under the circumstances.

4.7B-6 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 the Town's complaint process does not prohibit you from filing a complaint with these agencies.

1. The United States Equal Employment Opportunity Commission ("EEOC")
10 Congress Street - 10th Floor
Boston, MA 02114
(617) 565-3200

2. The Massachusetts Commission Against Discrimination ("MCAD")
One Ashburton Place - Room 601
Boston, MA 02108
(617) 727-3990

Policies excerpted from the Town of Burlington's Personnel Rules & Regulations