

TOWN OF FREETOWN
EQUAL EMPLOYMENT OPPORTUNITY, DISCRIMINATION,
AND SEXUAL HARASSMENT POLICY

Amended and Approved by
Board of Selectmen on March 18, 2019, Adopted May 15, 2019
Reviewed and Approved by Board of Selectmen March 8, 2023

I. PURPOSE

This Policy describes the Town's prohibition of unlawful discrimination and harassment in the workplace, in order to ensure compliance with all applicable federal laws and state statutes and regulations.

II. APPLICATION

The Policy applies to all employees of the Town of Freetown, excluding those employees under the supervision and control of the School Committee. Employees whose employment is governed by a collective bargaining agreement are subject only to those provisions of this Policy not specifically regulated by law or agreement.

III. POLICY

It is the Policy of the Town to promote a professional and productive workplace in which all employees are treated with dignity and respect. Employees are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity. Discrimination, including harassment, whether based upon race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, pregnancy or pregnancy-related condition, genetic information, active military status, or other bases prohibited under state or federal anti-discrimination statutes, will not be tolerated. To achieve the goal of providing a workplace free from discrimination, the Town will implement the procedure described below to address any potential inappropriate conduct.

A. Coverage

This Policy applies to all employment practices and employment programs sponsored by the Town. This Policy shall apply, but not be limited to, the areas of:

- Recruitment
- Selection
- Compensation and benefits
- Professional development and training
- Reasonable accommodation for disabilities or religious practices
- Promotion
- Transfer
- Termination; and
- Other terms and conditions of employment.

This Policy may apply to discrimination (including harassment) that occurs between co-workers that takes place outside the workplace (including, but not limited to, online conduct or conduct utilizing the internet or other electronic media). When the conduct complained of occurs outside of the workplace, the Town may consider the following and other factors in assessing whether the conduct constitutes conduct in violation of this Policy:

- whether the event at which the conduct occurred is linked to the workplace in any way, such as at a Town-sponsored function;
- whether the conduct occurred during work hours;
- the severity of the alleged outside-of-work conduct;
- the work relationship of the complainant and alleged harasser, which includes whether the alleged harasser is a supervisor and whether the alleged harasser and complainant come into contact with one another on the job;
- whether the conduct adversely affected the terms and conditions of the complainant's employment or impacted the complainant's work environment.

Because the Town takes allegations of unlawful discrimination and harassment seriously, officials will respond promptly to complaints and, where it is determined that such inappropriate conduct has occurred, 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 goals of promoting a workplace that is free of discrimination and 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 legal definitions of discrimination or harassment.**

B. Examples of Prohibited Discriminatory Behavior

It is not possible to list all the circumstances that may constitute discrimination in violation of this Policy. Discrimination may take many forms, including both verbal and nonverbal behaviors. Prohibited behavior includes, but is not limited to, the following behaviors connected to someone's membership in one or more groups protected by law as noted in the first paragraph above: slurs or other derogatory comments; sharing demeaning pictures, cartoons, or jokes; demeaning gestures, and; any conduct constituting sexual harassment.

C. Definition of Sexual Harassment

Sexual Harassment - That conduct, including unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, which may constitute sexual harassment when:

- 1) submission to such conduct is made 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.

Hostile Work Environment – A form of sexual harassment, where pervasive and sexually hostile working conditions unreasonably interfere with an employee's ability to do his or her job.

Quid Pro Quo – Another form of sexual harassment, where tangible job benefits are offered or withheld in exchange for sexual favors.

Note: 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.

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 male or female workers may also constitute sexual harassment. This can include conduct that is aimed at a person's sexual orientation or gender identity.

IV. PROCEDURES

A. Complaints of Sexual Harassment

If an employee believes that he or she has been subjected to sexual harassment, it is the Town's policy to provide the employee with the right to file an internal complaint. This may be done orally or in writing.

An employee may file a complaint of sexual harassment by contacting the Town Administrator. Alternatively, an employee may file his or her complaint with the Board of Selectmen or the appointed Sexual Harassment Officer. These persons will remain available to discuss any concerns employees may have and to provide information about the Town's Policy on sexual harassment and the complaint process.

B. Sexual Harassment Investigation

When a complaint of sexual harassment is received, the Town 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. The Town's investigation will include a private interview with the person filing the complaint and with any witnesses. The Town will also interview the person alleged to have committed sexual harassment. When the investigation has concluded, the Town 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, the Town will act promptly to eliminate the offending conduct, and where appropriate, impose disciplinary action.

C. Complaints Concerning Other Forms of Discrimination and/or Harassment

Complaints alleging forms of discrimination and/or harassment, other than sexual harassment, will be processed in accordance with Paragraphs 1 and 2, above, whenever appropriate.

D. Confidentiality

Given the sensitive nature of complaints of discrimination and/or harassment, all parties and witnesses in a complaint, as well as department heads, supervisors, etc. who are aware of a complaint or investigation thereof, are strongly encouraged to maintain this information as confidential, so as not to negatively impact an investigation. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

All employees are reminded of the provisions of G.L. c. 268A, § 23(c)(2), which prohibit a municipal employee or official from improperly disclosing information that is protected from disclosure under the public records law, and acquired by an employee or official in the course of official duties. Section 23 also prohibits a municipal employee or official from using such information to further the employee's/official's personal interest. Violations of Section 23 may lead to disciplinary action, up to and including termination.

E. Retaliation

Any retaliation against an individual who has formally or informally complained about discrimination, including harassment, or has cooperated with an investigation of a discrimination complaint, is prohibited.

Retaliation can be overt or subtle. Retaliation may include, but is not limited to, treating a complainant or witness differently, more harshly or in a hostile manner; physical interference with movement such as blocking a path; derogatory comments or action which would tend to have a chilling effect on other complainants; sudden investigations of the complainant's private life, or; sudden strict enforcement of work rules. Retaliation in any form will not be tolerated.

IV. SANCTIONS

If it is determined that inappropriate conduct has been committed by an employee, the Town will take such action as is appropriate under the circumstances. Such actions may include: counseling, informal or formal reprimands, written or verbal warnings, suspension, reduction in pay, reduction in duties, transfers, and other formal sanctions, including termination from employment.

V. STATE AND FEDERAL REMEDIES

In addition to the above, if an employee believes he or she has been subjected to sexual harassment, he or she may file a formal complaint with either or both of the government agencies listed below. Using the Town's complaint process does not prohibit an employee from filing a complaint with either of these agencies. Please note that both agencies have a short time period for filing a claim (300 days).

1. The United States Equal Employment Opportunity Commission (EEOC)

John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
Phone: (800) 669-4000
TTY: (800) 669-6820

2. The Massachusetts Commission Against Discrimination (MCAD)

Boston Office

One Ashburton Place
Sixth Floor, Room 601
Boston, MA 02108
Phone: 617-994-6000
TTY: 617-994-6196

Springfield Office

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

Worcester Office

Denholm Building
484 Main Street, Suite 320
Worcester, MA 01604
(508) 453-9630
(508) 453-9641 – FAX

New Bedford Office

Demello International Center
128 Union Street, Suite 206,
New Bedford, MA 02740
(774) 510-5801
(774) 510-5802 - FAX

VI. REASONABLE ACCOMMODATION

The Town will not discriminate against people with disabilities in any employment practices or in terms, conditions or privileges of employment, including, but not limited to: application, testing, hiring, assignment, evaluation, disciplinary action, training, promotion, medical examination, layoff/recall, termination, compensation, leaves or benefits. The Town will make reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability, unless such action would cause an undue hardship to the operations of the Town.

Employees seeking reasonable accommodations may submit their request in writing to Town Administrator, Town of Freetown, PO Box 438, 3 No. Main Street, Assonet, MA 02702 508-644-2202 x1102.

VII. EQUAL EMPLOYMENT OPPORTUNITY STATEMENT

The Town will not discriminate in its employment practices, on the basis of race, color, gender, gender identity, national origin, religious creed, ancestry, age, sexual orientation, disability, maternity leave, genetic information, active military status, or another basis prohibited under state or federal anti-discrimination statutes. This shall include such areas as recruitment, selection, compensation and benefits, professional development and training, reasonable accommodation for disabilities or religious practices, promotion, transfer, termination, layoff, and other terms and conditions of employment.

Amended and Approved by the Board of Selectmen on March 18, 2019 and Adopted on May 15, 2019 replacing the Policy previously adopted on May 9, 2011.

Reviewed and Approved by the Board of Selectmen at their meeting on March 10, 2023

FREETOWN BOARD OF SELECTMEN

Trevor R. Matthews, Chairman



Jared C. Zager



Carlos A. Lopes