

Policy: Harassment

Revision Date: 3/16/15

Effective Date: 3/17/15



I. Preamble

The Town of Blandford ("Town") is committed to promoting a safe, comfortable and appropriate work environment that is free from sexual and other types of harassment; protecting the rights of all employees; and outlining proper management, interpretation and interventions that are appropriate and respectful of employees' rights.

It is also the policy of the Town of Blandford to prohibit retaliation against anyone who in good faith files a complaint of harassment or cooperates in an investigation thereof.

II. Purpose

The purpose of this document is to define the Town of Blandford Policy against sexual and other types of harassment, in compliance with applicable federal and state law and regulations.

The Town is further committed to complying with other state and federal laws that forbid other forms of harassment, such as those related to stalking and cyber-stalking.

III. Policy Statement

The Town will not tolerate sexual or any other form of harassment occurring in the workplace.

The Town, through its Board of Selectmen, states unequivocally that harassment in the workplace, as defined herein, shall not be tolerated. 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 action may range from counseling to termination of employment, and may include such other forms of disciplinary action.

While this Policy sets forth the Town's goals of promoting a workplace that is free of sexual and other forms of 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 harassment.

IV. Applicability

This Policy applies to all employees of the Town, excluding those under the supervision and control of the Blandford School Committee. The Policy shall also apply to the Town's agents, elected or appointed officials, consultants, and volunteers.¹ All individuals with supervisory authority over other employees are responsible for maintaining a workplace free of harassment.

To promote compliance with the goals of this Policy, a copy thereof shall be posted in a conspicuous location at Town Hall and each employee shall be provided with a copy of this Policy on an annual basis. Additional copies will be provided upon request.

V. Prohibited Conduct

A. Sexual Harassment

In Massachusetts, sexual harassment is defined as sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- 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 (quid pro quo); or
- 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 (hostile 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.

¹ For purposes of this Policy, the term "employee" shall include all Town employees, elected and appointed officials, consultants and volunteers.

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:

- 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.

The following is a non-exhaustive list of behavior that may constitute sexual harassment:

- Verbal comments of a sexual nature, *e.g.* questions and comments about a person's sexual behavior, comments about a person's body or dress;
- Offensive comments, jokes, innuendo, and other sexually-oriented statements;
- Use of abusive or demeaning language, *e.g.* swearing, or the use of disparaging terms such as "chicks," "skirts," "hunks," "studs," or slang for certain body parts; or the unwelcome use of terms of endearment, *e.g.* "cutie," "honey," or "sweetheart";

- Offensive and unwelcome touching of any kind, *e.g.*, patting, rubbing, hugging, kissing, cornering or brushing up against someone;
- Display of sexually suggestive pictures, objects, cartoons, posters or pornographic material;
- Sending sexually explicit e-mails or other electronic messages, or sending e-mails or other forms of electronic communication to an employee after being advised not to do so.
- Posting or sending sexual explicit or suggestive messages, photographs or video recordings on social media web sites (i.e. Facebook, Twitter, Instagram or YouTube).
- Refusing to take action or investigate an allegation of sexual harassment or otherwise condoning such behavior;
- Continuing to ask a co-worker to socialize after work when that individual has verbally indicated no interest in such activity;
- Repeatedly exerting pressure on a co-worker to engage in sexual activity, *e.g.*, continuing to write suggestive notes after the individual has indicated an unwillingness to engage in such activity.

The scope of the prohibition against sexual harassment is broad and extends to the following circumstances:

- Both male and female employees may be the victim of sexual harassment; and both may be the aggressor.
- It is not necessary for the conduct to have been committed by the victim's supervisor.
- The victim does not have to be the opposite sex from the harasser.
- The victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim may also be someone who is affected by such conduct when it is directed toward another person. For example, the sexual harassment of one employee may create an intimidating, hostile, or offensive working environment for another employee or unreasonably interfere with the latter's performance.
- Sexual harassment does not depend on the victim having suffered a concrete economic injury as a result of the harasser's conduct. For example, improper sexual advances which do not

result in the loss of a promotion by the victim or the discharge of the victim may, nonetheless, constitute sexual harassment where they unreasonably interfere with the victim's work or create a harmful or offensive work environment.

All employees should take 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 constitute a violation of this Policy.

B. Other Types of Prohibited Harassment

In addition to sexual harassment, other forms of harassment prohibited by this Policy include offensive comments or conduct pertaining to an individual's race, ethnicity, religion, creed, ancestry, national origin, age, physical or mental disability, sexual orientation, gender, gender identity, marital status, or veteran status, or any other classification protected by state or federal law.

Such conduct may include, but is not limited to:

- Making gestures, threats, derogatory comments, or slurs that may be offensive to individuals in a particular group;
- Bullying behavior that is threatening, intimidating, verbally abusive or results in other disruptive actions in the workplace;
- Sending messages by letters, notes, email, or telephone that may be offensive to individuals in a particular group displaying derogatory objects, photographs, cartoons, calendars, or posters;
- Posting messages, photographs or video recordings on social media sites (i.e. Facebook, Twitter, Instagram or YouTube) that are intended to harass, demean, embarrass, bully or intimidate an individual.

Below is a non-exhaustive list of types of prohibited harassment:

1. Hostile Work Environment

Hostile work environment harassment is a form of discrimination and occurs when unwelcome comments or conduct based on one's sex, race, or other legally protected characteristics unreasonably interferes with an employee's work performance or creates an intimidating, hostile or offensive work environment. This type of harassment becomes unlawful when: 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.

Petty slights, annoyances, and isolated incidents, unless extremely serious and pervasive, which may not necessarily rise to the level of illegality under applicable law may nonetheless amount to a violation of this Policy.

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, display of offensive objects or pictures, and interference with work performance.

2. Stalking

Stalking refers to a clear pattern of conduct through which the perpetrator causes the victim reasonable fear for their safety.

Cyber-stalking generally refers to stalking someone through the internet, email, text messages, or other means of electronic communications.

3. Menacing

Menacing can often include ongoing actions such as stalking someone, which cause reasonable fear in the victim, but may also include single acts which are purposefully intended to create a reasonable fear in someone, such as brandishing a weapon.

VI. Complaint Procedure

Any employee who believes he/she may have been subjected to or has witnessed a form of harassment should follow the following internal complaint procedures. Confidentiality will be maintained throughout the investigatory process to the extent practicable and appropriate under the circumstances to protect the privacy of persons involved. Investigations may include interviews with parties involved and where necessary, with individuals who may have observed the alleged conduct or who may have relevant knowledge.

Step 1: If appropriate, the individual alleging harassment may file an internal complaint orally or in writing to his or her direct supervisor. If this is not an appropriate option, the individual may report the incident to the Harassment Grievance Officer, who can be contacted at the address below:

Mary Kronholm, Town Clerk

1 Russell Stage Road, Suite 1

(413) 848-4279 x 203

townclerk@townofblandford.com

Upon receipt of the complaint, the supervisor or Harassment Grievance Officer shall immediately conduct a preliminary investigation of the complaint. In cases where the complaint has been reported to the complainant's supervisor, the supervisor should report the matter to the Harassment Grievance Officer, who shall assist the supervisor in completing the preliminary investigation.

Step 2: If, after the completion of this preliminary investigation it is determined that there is reasonable cause for finding a violation of this Policy, the Harassment Grievance Officer will notify the complainant and the alleged harasser of the finding. The alleged harasser shall be provided with the details of the complaint and an opportunity to refute the allegation by responding verbally or in writing. All investigative efforts and interviews shall be documented in an internal administrative memorandum, directed to the Board of Selectmen and/or the appropriate department head.

Upon review of the alleged harasser's response, the Harassment Grievance Officer shall issue a statement of findings that addresses all allegations in the complaint. If the allegations are

unsubstantiated, the matter shall be closed internally. If the investigative report concludes that a violation of the Town's policy has occurred, the allegations shall be submitted to the Board of Selectmen for review, analysis and disposition. 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 against the offending employee(s). The Town reserves the right to take disciplinary action against an employee who files a complaint of harassment that is deliberately false and made in bad faith.

In addition to the above, if an employee believes he or she has been subjected to sexual or another form of 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).

Massachusetts Commission Against Discrimination (MCAD)

One Ashburton Place, Room 601

Boston, MA 02108

Tel: (617) 727-3990

<http://www.mass.gov/mcad/>

Equal Employment Opportunity Commission (EEOC)

1 Congress Street, 10th Floor

Boston, MA 02114

Tel: (617) 565-3200

TDD: (617) 565-3204

<http://www.eeoc.gov/>

Any retaliatory action taken by an employee against any other employee as a result of an individual's seeking redress under this procedure is prohibited and shall be regarded as a separate and distinct cause for complaint under this procedure, and as a basis for disciplinary action against the offending employee.

The Board of Selectmen affirms its responsibility to provide a work environment free of harassment and recognizes that such an environment is the result of continued responsible action and behavior by all employees. Any employee is encouraged to raise questions regarding sexual harassment or other barriers to equal employment opportunity with the Harassment Grievance Officer.

Town of Blandford Harassment Policy

Employee Confirmation of Receipt

I hereby certify that I have received and reviewed a copy of the Town's Harassment Policy.

Employee Name

Employee Signature

Date

Approvals:

Bill Levakis: _____ Date: _____

Adam Dolby: _____ Date: _____

Andy Montanaro: _____ Date: _____