

Section 1.1 Purpose

Discriminatory Harassment Policy

Introduction: It is the goal of the Town of Chilmark 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 sex, race, color, national origin, religion, age, disability, or sexual orientation. The Town of Chilmark 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 conjunction with work-related travel, and/or work-related events will not be tolerated. Further, any retaliation against an individual who has complained about harassment or retaliation against an individual for cooperating with an investigation of a harassment complaint is similarly unlawful and will not be tolerated.

Because the Town of Chilmark takes allegations of harassment seriously, the Town will respond promptly to complaints of harassment. Where it is determined that 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.

While this policy sets forth the Town’s goals of promoting a workplace that is free 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 it deems unacceptable, regardless of whether that conduct satisfies the definition of harassment.

Definitions:

- A. “Harassment” means unwelcome conduct, whether verbal or physical, that is based on a person or group 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 protected by law as previously described.
 - 2. Verbal abuse, threats, slurs, derogatory comments, or insults about, directed at, or made in the presence of an individual or group protected by law as previously described; and
 - 3. Any direct or implied requests by a supervisor for favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment.

- B. "Sexual Harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
1. Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of an individual's employment or is used as the basis for employment decisions affecting such individual; or
 2. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, humiliating or sexually 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. In fact, such retaliation will usually result in termination.

Complaint Procedures: All employees, managers, and supervisors of the Town of Chilmark share responsibility for avoiding, discouraging and reporting any form of discriminatory harassment. The primary responsibility for ensuring proper investigation and resolution of harassment complaints rests with the Human Resources Board of

Chilmark (HRBC) or its designee, who will administer the policy and procedures described herein.

If any Town employee believes that he or she has been subjected to discriminatory harassment, the employee has the right to file a complaint with the HRBC. In certain circumstances the Department Head may be involved as appropriate. This may be done in writing or orally. 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 HRBC 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 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 Executive Secretary (who will transmit the complaint to the HRBC) or to the HRBC Chair directly. These persons are also available to discuss any concerns you may have and to provide information to you about our policy on harassment and our complaint process.

Complaint Investigation: When a complaint is filed with the HRBC it 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. The investigation will include private interviews with the person filing the complaint and with witnesses. The HRBC Chair will also interview the person alleged to have committed harassment. The complainant, the person alleged to have committed harassment, and all Town employee-witnesses are required to fully cooperate with all aspects of the investigation. An employee does not have a right to have an attorney to be present during a complaint interrogation unless an employee is being questioned about criminal conduct. However, employees that are members of a collective bargaining unit have the right to the presence of a union “buddy” if they so request to assist them during any interrogation that a reasonable person would believe might result in discipline. (If an interrogation is scheduled in advance and the union sends an attorney as its representative, such attorney may be present in lieu of such union “buddy”.) When the HRBC has completed its investigation, they 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.

Notwithstanding any provision of this policy, the HRBC reserves the right to investigate and take action on its 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.

Employees should be aware that all complaints will be investigated. It is not possible to ask that no action be taken once a complaint is made.

If it is determined that inappropriate conduct has occurred, the HRBC will make a recommendation to the Board of Selectmen, act promptly to eliminate the offending conduct, and where it is appropriate the Board of Selectmen or other appointing authority will also impose disciplinary action.

Disciplinary Action: If it is determined that inappropriate conduct has been committed by a Town employee, 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 it deems appropriate under the circumstances. In cases of retaliation, termination is usually the appropriate level of discipline.

State and Federal Remedies: In addition to the above, if the employee believes that he or she has been subjected to discriminatory harassment of any type, including sexual harassment, the employee 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 the employee 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 incident.

The United States Equal Employment Opportunity Commission ("EEOC")

One Congress Street, 10th Floor
Boston, MA. 02114
(617) 565-3200

The Massachusetts Commission Against Discrimination ("MCAD")

Boston Office:
One Ashburton Place; Room 601
Boston, MA. 02108
(617) 727-3990

Springfield Office:
424 Dwight Street; Room 220
Springfield, MA. 01103
(413) 739-2145

Worcester Office
New Bedford Office