

HARASSMENT OF INDIVIDUALS IN PROTECTED CLASSES

Introduction

The Town of Harvard (the “Town”) depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to providing a working environment that is free from all forms of abuse or harassment. The Town recognizes the right of all employees to be treated with respect and dignity.

Harassment on the basis of race, creed, color, national origin, gender, age, military status, physical or mental disability, sexual orientation, or genetic information (hereafter referred to as “protected class harassment”) is a form of behavior that adversely affects the employment relationship. It is prohibited by Federal and/or State law. Protected class harassment of individuals occurring in the workplace or in other settings in which individuals of the Town may find themselves in a connection with their employment is unlawful and will not be tolerated by the Town. The Town also condemns and prohibits protected class harassment by any applicant, client, vendor or visitor.

Because the Town takes allegations of protected class harassment seriously, we will respond promptly to complaints of protected class harassment and where it is determined that 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, including discharge.

It is important to note that while this policy sets forth our goals of promoting a workplace that is free of protected class harassment, 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 protected class harassment.

Definition of Protected Class Harassment

Protected class harassment refers to behavior, which is not welcomed by the employee, which is personally offensive to him or her, and which undermines morale and/or interferes with the ability of the employee to work effectively. While it is not possible to list all of the circumstances that may constitute protected class harassment, depending upon the totality of the facts, including the severity of the conduct and its pervasiveness, following is a list of situations that could constitute protected class harassment:

- Verbal abuse on the basis of any protected status;

- Use of words that degrade a protected class or person because of his/her protected class status;
- Jokes or language about a protected class
- Obscene or suggestive gestures or sounds intended to relate to the protected class;
- Teasing related to the protected class;
- Verbal comments of a nature about an individual's appearance or terms used to describe an individual that are related to the individual's protected status;
- Posting or distributing objects, pictures, cartoons or other materials degrading to the protected class or a person because of his/her protected class status;
- Letters or notes that degrade the protected class or a person because of his/her protected class status;
- Sending offensive or discriminatory messages or materials through the use of electronic communications (e.g., electronic mail, including the Internet, voice mail and facsimile) which are degrading to the protected class or a person because of his/her protected class status;
- Condoning harassment on the basis of the protected class.

Harassment on the basis of protected class status is not limited to behavior by a non-member of the protected class. Protected class harassment can occur in a variety of circumstances. Here are some things to remember:

- The harasser does not have to be the victim's supervisor;
- A member of the protected class may be victimized by another member of the protected class;
- The victim does not have to be the person at whom the unwelcome protected class harassment is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the co-worker or interferes with the co-worker's work performance;

Individual Responsibilities

Each individual of the Town is personally responsible for:

- Ensuring that his/her conduct does not harass any other employee or person with whom the employee comes in contact on the job, such as an outside vendor;
- Cooperating in any investigation of alleged protected class harassment by providing any information he/she possesses concerning the matter being investigated;
- Actively participating in efforts to prevent and eliminate protected class harassment and to maintain a working environment free from such discrimination; and
- Ensuring that an employee who files a protected class harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

The Rule

It is, therefore, against the policy of the Town for any individual, whether a member of a protected class or not, to harass another individual on the basis of protected class status by:

- Making a submission to such conduct either implicitly or explicitly a term or condition of an employee's employment;
- Making submission to, or rejection of, such conduct by an individual the basis for employment decisions affecting the employee;
- Intending to or having the effect of interfering with an individual's work performance; or
- By creating a hostile or intimidating work environment for the employee.

It is also against the policy of the Town for an individual to harass any person with whom the employee comes in contact on the job or to engage in any protected class harassment or inappropriate or unprofessional conduct in the workplace.

The Retaliation

Retaliation against an individual for filing a complaint of protected class harassment or against any individual for cooperating in an investigation of a protected class harassment complaint is against the law.

Violation of Policy

Any individual violating this policy will be subject to appropriate discipline, including possible discharge.

Procedures for Complaints

The Town has designated a Protected Class Harassment Grievance Officer. The current Protected Class Harassment Grievance Officer is Marie Sobalvarro, Director of Human Resources. She can be reached at 13 Ayer Road, Harvard, MA 01451, and her telephone number is 978-456-4100, x.330. If you prefer, you may contact Timothy Bragan, Town Administrator, who has been designated as the Alternate Protected Class Harassment Grievance Officer. He can be reached at 13 Ayer Road, Harvard, MA 01451, and his telephone number is 978-456-4100, x. 313.

If any individual believes that he or she has been subjected to protected class harassment on the basis of his/her protected class, the individual should initiate a complaint by contacting the Protected Class Harassment Grievance Officer as soon as possible. The individual should file the complaint promptly following any incident of protected class harassment. The individual should be aware that the longer the period of time between the event giving rise to the complaint and

the filing, the more difficult it will be for the Protected Class Harassment Grievance Officer to reconstruct what occurred. The individual will be requested to write out his or her complaint to document the charge.

If an employee prefers to discuss a possible protected class harassment problem with his or her supervisor, the employee may always do so, but employees do not have to go through the regular chain of supervision when reporting protected class harassment and may go directly to the Grievance Officer.

Investigation

Upon receiving the complaint, the Protected Class Harassment Grievance Officer or the Alternate Protected Class Harassment Grievance Officer will promptly undertake an investigation of the matter. The investigation may include private interviews with the employee making the complaint, with witnesses, and with the person accused of protected class harassment. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

Decision

After the response of the charged individual has been made, and any further investigation which may be warranted has been carried out, the Town will make a final decision. If the Town finds that the allegations in the complaint have been established by the investigation, the Town will initiate discipline of the charged individual. Discipline will be appropriate to the offense and employees involved, and may include discharge⁷. The complainant will be notified of the disposition of the investigation.

State and Federal Agencies

The Massachusetts Commission Against Discrimination ("MCAD"), with offices at 484 Main Street, Suite 320, Worcester, MA 01608, 436 Dwight Street, Springfield, MA 01103, and One Ashburton Place, Boston, MA 02108 is responsible for enforcing the Massachusetts discrimination and protected class harassment law, and The U.S. Equal Employment Opportunity Commission ("EEOC") is responsible for enforcing the federal law prohibiting protected class harassment. The EEOC is located at JFK Federal Building, Government Center, Room 475, Boston, MA 02203. They may be contacted at the above addresses. A complaint to MCAD must be filed within 300 days. A complaint under federal law should be filed within 180 days, but under certain circumstances, a federal complaint may be filed within 300 days.

⁷ Employees of the Town who are members of a bargaining unit shall be subject to discipline in accordance with the terms of the applicable Collective Bargaining Agreement.

TOWN OF HARVARD: POLICY ACKNOWLEDGEMENT

I acknowledge that I have received The Code of Conduct, and the Protected Class Harassment Policy from the Town of Harvard, and attest that I will comply with the requirements stated therein.

Signed

Date

Print Name

Please complete and return to townclerk@harvard-ma.gov