

# CITY OF MARLBOROUGH

## HARASSMENT OF INDIVIDUALS IN PROTECTED CLASSES:<sup>1</sup> POLICY AND PROCEDURES

### **I. Policy**

#### **A. Introduction**

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

Harassment on the basis of race, religion, creed, color, national origin, sex/gender, age, 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 City may find themselves in connection with their employment is unlawful and will not be tolerated by the City. The City also condemns and prohibits protected class harassment by any applicant, client, vendor or visitor.

Because the City 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.

#### **B. 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. The list of situations is non-exhaustive:

- 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;

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<sup>1</sup> Sexual harassment is covered by a separate policy, which has been issued to all employees.

- 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 class;
- verbal abuse, comments, jokes, teasing or threats directed at a person because of his/her protected class 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 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 City 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.

### **C. The Rule**

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

- making submission to such conduct is made either implicitly or explicitly a term or condition of an employee's employment;
- making submission to, or rejection of, such conduct by an individual is made 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 City 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.

Employees are also protected from protected class harassment by the City's managers and supervisors.

### **D. Retaliation**

Retaliation against an individual for filing a complaint of protected class harassment or discrimination, or against any individual for assisting another file a complaint of protected class harassment or discrimination, or for cooperating in an investigation of a protected class harassment or discrimination complaint, is against the law, and will not be tolerated by the City.

## **II. Violation of Policy**

Any individual violating this policy will be subject to disciplinary action, up to and including immediate discharge.

## **III. Procedures for Complaints**

### **A. Complaint**

The City has designated a Protected Class Harassment Grievance Officer. The current Protected Class Harassment Grievance Officer is David Brumby, Personnel Director. He can be reached at City of Marlborough, 140 Main Street, Marlborough, MA 01752, and his telephone number is (508) 460-3706. If you would prefer, you may contact Cynthia Panagore Griffin., Esq., Assistant City Solicitor, who has been designated as the Alternate Protected Class Harassment Grievance Officer. She can be reached at City of Marlborough, 140 Main Street, Marlborough, MA 01752, and her telephone number is (508) 460-3771.

If any individual believes he or she has been subjected to harassment on the basis of his/her protected class, the individual should initiate a complaint by contacting the Protected Class Harassment Grievance Officer or the Alternate 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 or the Alternate Grievance Officer. The Protected Class Harassment Grievance Officers are also available to receive complaints about directors, managers and supervisors.

#### **B. Investigation**

On receiving the complaint, the Protected Class Harassment Grievance Officer or the Alternate Protected Class Harassment Grievance Officer will promptly have a preliminary investigation made into the matter. If after the completion of this preliminary investigation it is determined that there is reasonable cause for finding a violation of this policy, the City will notify the complainant and the charged employee of the finding orally. The charged employee will be requested to respond to the complaint. Additional investigation will be made to the extent appropriate in each case. This process will be confidential to the extent consistent with an effective investigation, subject to the business needs of the City.

#### **C. Decision**

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

The complainant will be notified of the disposition of the investigation.

#### **IV. State and Federal Agencies**

The Massachusetts Commission Against Discrimination (“MCAD”), located at One Ashburton Place, Boston, MA 02108, and 436 Dwight Street, Springfield, MA 01103, is responsible for enforcing the Massachusetts discrimination and protected class harassment law. The U.S. Equal Employment Opportunity Commission (“EEOC”), located at JFK Federal Office Building, Government Center, Room 475, Boston, MA 02203, is responsible for enforcing the federal law prohibiting protected class harassment. The MCAD and EEOC may be contacted at the above addresses. A complaint to the MCAD or EEOC may be filed within 300 days of the last date of discrimination.

**V. Acknowledgment of Receipt of Policy**

I acknowledge receipt of this Protected Class Harassment Policy from the City, and I have read its contents.

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Employee Name (Print)

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Employee Signature

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Witness

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Date