

# CITY OF MARLBOROUGH

## SEXUAL HARASSMENT:<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 or harassment. The City recognizes the right of all employees to be treated with respect and dignity.

Sexual harassment is a form of behavior that adversely affects the employment relationship. State and Federal law prohibit such behavior. Sexual 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 sexual or other harassment by any applicant, client, vendor or visitor.

Because the City takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual 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 termination of employment.

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

#### B. Definition of Sexual Harassment

Sexual harassment does not refer to purely voluntary social activities. It 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 sexual 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 sexual harassment.

- verbal abuse of a sexual nature;
- use of sexually degrading words;
- jokes or language of a sexual nature;
- conversation or gossip with sexual overtones;

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<sup>1</sup> Harassment of other protected classes is covered by a separate policy, which has been issued to all employees.

- obscene or suggestive gestures or sounds;
- sexually-oriented teasing;
- verbal comments of a sexual nature about an individual's appearance or sexual terms used to describe an individual;
- inquiries into one's sexual experiences;
- discussion of one's sexual activities;
- comments, jokes or threats directed at a person because of his/her sexual preference;
- unwelcome and repeated invitations (for lunch, dinner, drinks, dates, sexual relations);
- demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment status or promises of preferential treatment;
- physical contact such as touching, hugging, kissing, stroking, fondling, patting, pinching or repeated brushing up against one's body;
- deliberate bumping, cornering, mauling, grabbing;
- assaults, molestations or coerced sexual acts;
- posting or distributing sexually suggestive objects, pictures, cartoons or other materials;
- sexually-oriented letters or notes;
- 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 contain overt sexual language, sexual implications or innuendo, or comments that offensively address someone's sexual orientation;
- staring at parts of a person's body;
- sexually suggestive gestures, leering; and
- condoning sexual harassment.

Sexual harassment is not limited to prohibited behavior by a male employee toward a female employee. Sexual harassment can occur in a variety of circumstances. Here are some things to remember:

- A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser;
- The harasser does not have to be the victim's supervisor;
- The victim does not have to be of 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 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 sexually 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 sexual harassment by providing any information he/she possesses concerning the matter being investigated;
- actively participating in efforts to prevent and eliminate sexual harassment and to maintain a working environment free from such discrimination; and
- ensuring that an employee who files a sexual harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

### **C. The Policy**

It is, therefore, against the policy of the City for any individual, male or female, to harass another individual sexually, that is, by making unwelcome sexual advances, requests for sexual favors, or other uninvited verbal or physical conduct of a sexual nature when:

- submission to such conduct is made either implicitly or explicitly a term or condition of an employee's employment;
- submission to, or rejection of, such conduct by an individual is made the basis for employment decisions affecting the employee;
- such conduct has the purpose or effect of interfering with an individual's work performance; or
- a hostile or intimidating work environment is created for the employee, or

- such conduct has the purpose or effect of interfering with an individual's work performance.

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

#### **D. Retaliation**

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

### **II. VIOLATION OF POLICY**

Any individual violating this policy will be subject to appropriate discipline, including possible termination of employment.

### **III. PROCEDURES FOR COMPLAINTS**

#### **A. Complaint**

The City has designated a Sexual Harassment Grievance Officer. The current Sexual 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 Sexual 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 sexual harassment, the individual should initiate a complaint by contacting the Sexual Harassment Grievance Officer or the Alternate Grievance Officer as soon as possible. The individual should file the complaint promptly following any incident of alleged 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 Sexual Harassment Grievance Officer to investigate 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 sexual 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 sexual harassment and may go directly to the Grievance Officer or the Alternate Grievance Officer.

#### **B. Investigation**

On receiving the complaint, the Sexual Harassment Grievance Officer or the Alternate Sexual 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 termination of employment, subject to the City's at-will employment policy

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 sexual harassment law. The U.S. Equal Employment Opportunity Commission ("EEOC") is responsible for enforcing the federal law prohibiting sexual harassment. The EEOC is located at JFK Federal Office Building, Government Center, Room 475, Boston, MA 02203. 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 Sexual 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