

# Town of Berlin

## Harassment, Sexual Harassment, and Drug Free Workplace and Substance Abuse Policy

### **I. Harassment and Sexual Harassment Policy**

#### **A. Harassment and Sexual Harassment Prohibited**

Harassment in any form including, but not limited to age, race, color, national origin, sex, religion, sexual orientation or disability is prohibited by state and /or federal law, and will not be tolerated by the Town. All Town employees (full time/part time or volunteer) responsible for insuring that the work place is free from all forms of harassment. This policy applies to all employees and officers of the Town. Supervisory and managerial employees must not condone acts of harassment by their subordinate employees, by other town employees, by regular visitors to Town offices, or by employees of our vendors and contractors. Retaliation against persons complaining about harassment or sexual harassment is also unlawful and is prohibited by this policy.

#### **B. Harassment Defined**

1. Harassment in General. Harassment in any form including, but not limited to age, race, color, national origin, sex, religion, or disability, which disrupts or interferes with another's work performance, or which creates an intimidating, offensive, or hostile environment.
2. Sexual Harassment. In Massachusetts, the legal definition for sexual harassment is this:

"sexual harassment means sexual advances, requests for sexual favors, and verbal, or physical conduct of a sexual nature when:

- (a) 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; or
- (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with the individual's work performance by creating an intimidating, hostile, humiliation or sexually offensive work environment.

Under this definition, 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 legal definition of sexual harassment is broad and in addition to the above examples, other sexually orientated 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.

Examples of Harassment. Harassment includes the use of insulting epithets or nicknames; the display of insulting or offensive cartoons, pictures, slogans or symbols; and, intimidation through physical violence or threats of violence.

Examples of Sexual Harassment. Sexual harassment is a type of harassment which refers to any unwelcome sexual attention, sexual advances, requests for sexual favors, and other unwelcome verbal, visual, or physical conduct to which an individual may be subjected because of gender. 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 sexual activity, deficiencies, or prowess;
- \* Displaying sexually suggestive objects, pictures, and 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.

## **II. Persons Covered**

This policy prohibits harassment of all employees, including non-supervisory, supervisory, management and executive personnel, and all applicants for employment.

## **III. Procedure**

### **A. Complaint**

1. Any employee who believes that he or she has been subjected to harassment prohibited by this policy has a responsibility to report the harassment as soon as possible to one of the Harassment Grievance Officers. They can be found under the Personnel Committee at the bottom of their page on the Town of Berlin website.
2. A complaint may be made verbally or in writing. The Town may require that a verbal complaint be reduced to writing with the assistance of the Harassment Grievance Officers.
3. Any supervisor, manager or other employee who becomes aware of harassment prohibited by this policy must report it immediately to the Harassment Grievance Officer.

### **B. Investigation**

1. All complaints of harassment will be investigated promptly and impartially by the Harassment Grievance Officers.
2. An individual conducting an investigation into a complaint of harassment will keep information as confidential as possible, and disseminate it on a "need to know" basis only. Others involved in the investigation in any capacity must also respect the privacy of those involved by keeping information learned during the course of the investigation confidential.
3. As soon as practicable after the completion of the investigation, the official responsible for conducting the investigation will, to the extent appropriate, advise the employee who brought the harassment complaint and the employee accused of harassment of the results of the investigation.

### **C. Action**

Anyone who is found, after investigation, to have engaged in harassment prohibited by this policy will be subject to disciplinary action up to and including discharge from employment. This policy shall not limit the authority of the Town to take disciplinary action against an employee who engages in inappropriate conduct, regardless of whether it satisfies the definition of harassment or sexual harassment under this policy.

#### **D. Retaliation Prohibited**

No one who brings a harassment complaint in good faith will be subject to any adverse employment action for doing so, regardless of whether the complaint is ultimately determined to have merit. Any employee, including supervisors and managers, who retaliate against an employee for making a complaint of harassment will be subject to disciplinary action, which may include termination of employment. Retaliation should be reported to management using the procedure set forth in this policy for complaints of harassment.

#### **IV. State and Federal Remedies**

In addition to the above, if you believe you have been subjected to harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of these agencies has a short time period for filing a claim (EEOC - 180 days; MCAD - 6 months).

- A. **The United States Equal Employment Opportunity Commission ("EEOC")**  
One Congress Street, 10th Floor  
Boston, MA 02114  
(617) 565-3200
  
- B. **The Massachusetts Commission Against Discrimination ("MCAD")**  
Boston Office: Springfield Office:  
One Ashburton Place, Room 601 424 Dwight Street, Room 220  
Boston, MA 02108 Springfield, MA 01103  
(617) 727-3990 (413) 739-2145

#### **V. Drug Free Workplace and Substance Abuse Policy**

- A. It is the policy of the Town of Berlin (Chapter 29, 29.4 - Drugs and Alcohol) to provide a drug free workplace for all of its employees and to comply with the provisions of the United States Drug-Free Workplace Act of 1988 (PL 100-690).
  
- B. Accordingly, the Town of Berlin, as a Federal Grant recipient, hereby notifies every employee that the manufacture, distribution, dispensation, possession or use of a controlled substance in the workplace is prohibited. Further, the Town of Berlin hereby notifies every employee that as a condition of employment, no alcohol or illegal drugs shall be used or possessed on Town property or Town equipment by an employee during the work shift of any employee, including all breaks and lunch periods.
  
- C. Violation of this policy shall result in a disciplinary action as set forth in the Personnel Bylaws, Chapter 10 - DISCIPLINE (10.1 Disciplinary Procedures).
  
- D. The Town of Berlin establishes, as a condition of employment, that each employee must abide by the drug-free workplace policies; and that each employee, must notify the Department Head, immediately of any such conviction, of any conviction for violation of any federal or state criminal drug law occurring in the workplace.
  
- E. Employees having any questions in regard to this policy are invited to contact their Department Head or Personnel Committee to discuss their concerns.
  
- F. This policy is effective as of January 1, 2005.

**MANDATORY SIGNATURE REQUIRED**

**I acknowledge receipt of these Policies (Harassment/Sexual Harassment & Drug Free Workplace) from the Town of Berlin, have read, understood and agree to abide by them.**

**PLEASE PRINT AND COMPLETELY FILL OUT.**

**EMPLOYEE** - (Name and Address) \_\_\_\_\_

**DEPARTMENT** - \_\_\_\_\_

\_\_\_\_\_  
Employee's Signature      Date      Witness

**I acknowledge receipt of these Policies from the Town of Berlin, have read them, understood, but refuse to formally sign.**

\_\_\_\_\_  
Employee's Signature      Date      Witness

\_\_\_\_\_  
Print Name