

POLICY # A2-5.1

SEXUAL HARASSMENT ALL EMPLOYEES

It is the policy of the Town of Wayland to promote a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings that employees may find themselves in connection with their employment is unlawful and will not be tolerated by the Town of Wayland. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. In order to provide a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated. A procedure has been provided to deal with inappropriate conduct.

Because the Town of Wayland takes allegations of sexual harassment seriously, it will respond promptly to complaints of sexual harassment. If 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, up to and including termination, where appropriate.

Please note that while this policy sets forth the Town's goal of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for workplace conduct that is deemed unacceptable, regardless of whether that conduct satisfies the definition of unlawful sexual harassment.

Definition of Sexual Harassment

In Massachusetts, the legal definition of sexual harassment is the following:

“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 an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work 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 violates this policy and constitutes sexual harassment.

In addition, other sexually oriented conduct that is unwelcome and has the effect of creating a workplace environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment regardless of the intent of the individual engaging in such conduct.

It is not possible to list all those additional circumstances that may violate this policy. The following are some examples of conduct that, if unwelcome, may violate this policy, 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 or orientation, gossip regarding one's sex life; comments about an individual's body, comments about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, sexually suggestive or insulting comments;
- Inquiries into one's sexual experiences; and
- Discussion of one's sexual activities.

As stated above, all employees should take special note that retaliation against an individual who has complained about or opposed 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 of Wayland.

Complaints of Sexual Harassment

If any employee believes he/she has been subjected to sexual harassment, the employee has the right to file a complaint with the Town. This may be done in writing or orally.

Complaints may be filed by contacting the Human Resource Manager, who will be responsible for the investigation of sexual harassment complaints and may be contacted at the following address and telephone number:

Human Resource Manager
Wayland Town Building
41 Cochituate Road
Wayland, MA 01778
Tel. (508) 358-3623

The Human Resource Manager is also available to discuss concerns around sexual harassment and to provide information about the Town's policy on sexual harassment and the Town's complaint process.

If the complaint involves the Human Resource Manager or if the employee prefers for any reason, the employee may file a complaint by contacting the Town Manager, who will be responsible for the investigation of the sexual harassment complaint and may be contacted at the following address and phone number:

Stephen Crane
Acting Town Manager
Wayland Town Building
41 Cochituate Road
Wayland, MA 01778
Tel. (508) 358-3620

Sexual Harassment Investigation

Complaints will be promptly investigated in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The Town of Wayland reserves the right to engage an individual who is not a Town employee to conduct the investigation. The investigation will include an interview with the person filing the complaint. Additional interviews may include witnesses and any appropriate persons. The person alleged to have committed sexual harassment may also be interviewed. Upon completion of the investigation, the person filing the complaint and the person alleged to have committed the conduct, will be informed of the results of the investigation to the extent appropriate.

If it is determined that inappropriate conduct has occurred, the Town will take action promptly to eliminate the offending conduct and, where appropriate, disciplinary action will be imposed.

Disciplinary Action.

If it is determined that this policy has been violated by an employee, action will be taken 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 deemed appropriate under the circumstances.

State and Federal Remedies

In addition to the above, if you believe you have been subjected to sexual harassment, you 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 you from filing a complaint with these agencies.

Each of the agencies has a short time period for filing a claim (EEOC – 300 days, MCAD 300 days).

1. The United States Equal Employment Opportunity Commission (EEOC)
John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
Tel. (617) 565-3200

2. The Massachusetts Commission Against Discrimination (MCAD)
Boston Office: Springfield Office:
One Ashburton Place - Rm. 601 436 Dwight Street, Rm. 220
Boston, MA 02108 Springfield, MA 01103
Tel. (617) 994-6000 Tel. (413) 739-2145

Please contact the Wayland Human Resources Department with any questions concerning this policy.

Personnel Board Updated: November 16, 2005