

## **SEXUAL HARASSMENT**

### **GENERAL CONSIDERATIONS AND GUIDELINES**

Employees and applicants for employment with a municipality have a right to be free from sexual harassment. Individuals who are victimized by sexual harassment have statutory remedies, which include filing a complaint with an administrative agency and/or the courts, both on a state and federal level. The Town has developed this policy to familiarize employees with applicable legal guidelines. This policy affords those who feel they are victims of sexual harassment with a procedure for making the employer aware of the problem and allowing it to attempt to remedy the situation.

This Town is concerned with allegations of sexual harassment in the workplace, whether by superiors, coworkers or even non-employees.

### **II. DEFINITION OF SEXUAL HARASSMENT**

Conduct which constitutes sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, promotion or job assignment;

Submission to or rejection of such conduct of an individual is used as the basis for employment, promotion, or job assignment decisions affecting such individual; or

Such conduct has interfered or is interfered or is interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. The belief that such interference is occurred or has occurred must be objectively reasonable.

Sexual harassment is not, by definition, limited to prohibit conduct by a male employee toward a female employee. Rather:

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. (S) he may also be an agent of the supervisor, a supervisory employee who does not supervise the victim, a non-supervisor employee (co-worker), or, in some circumstances, even a non-employee.

The victim does not have to be the opposite sex from the harasser.

The victim does not have to be the person at whom the unwelcome sexual conduct is directed. (S)he may also be someone who is affected by such conduct when it is directed toward another person. For example, the sexual harassment of one female (or male) employee may create an intimidating, hostile or offensive working environment for another female (or male) coworker or interfere with the coworker's performance. The belief that such interference has occurred must be objectively reasonable.

Sexual harassment does not depend on the victim's having suffered an actual economic injury as a result of the harasser's conduct. For example, improper sexual advances which do not result in the loss of promotion by the victim or the discharge of the victim may, nonetheless, constitute sexual harassment where they interfere with the

victim's work or create a harmful or offensive work environment. The belief that such interference occurred must be objectively reasonable.

### III. EXAMPLES OF SEXUAL HARASSMENT

Demanding sexual favors accompanied by overt threats concerning one's job, performance evaluation, promotion, etc.

Engaging in reprisals ( not granting promotions, assigning undesirable tasks, making negative statements about the victim's personal or work conduct, etc.) , as a result of an individual's refusing to engage in social / sexual behavior.

Contact with any sexual part of a coworker's body ( e.g. touching , patting or pinching ).

Touching any nonsexual part of the body (e.g. shoulder, etc.) after that person has verbally or otherwise indicated that such touching is unwanted.

Refusing to take action or to enforce disciplinary measures against a person who has been sexually harassing another person who has sexually harassing another staff member or otherwise condoning such behavior.

Continuing to ask a person to socialize after work when that person has verbally or in writing indicated no interest in such activities.

Displaying sexually suggestive pictures, objects, cartoons, or posters after being told they are offensive.

Subtle pressure for sexual activities; e.g. , continuing to write suggestive notes or letters after being informed they are unwelcome.

Verbal harassment or abuse; e.g. , referring to or calling a person an endearing , demeaning or sexualized term, or making reference to a person's physical characteristic ( e.g. pregnancy ) when that person verbally or in writing indicated to the harasser or the employer ( S ) he does not wish to be addressed or referred to in that manner.

Leering ( i.e. prolonged staring ) at a person's body.

Language in another's presence or conduct even if not directed to said individual – once it is known that ( S ) he objects.

### RESPONSIBILITIES OF ALL EMPLOYEES

Each employee is personally responsible for:

Ensuring that ( S ) he does not sexually harass any other employee, applicant for employment, or other individual in the workplace.

Cooperating in the investigation of complaints of alleged sexual harassment by providing any information ( S ) he possesses concerning the matters being investigated ; and

Otherwise cooperating with the Town's efforts to prevent and eliminate sexual harassment and to maintain a working environment free from such unlawful discrimination.

Ensuring that an employee who files a sexual harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

## **SANCTIONS**

Any employee found to have engaged in sexual harassment in violation of this policy is subjected to disciplinary action up to and including termination of employment.

## **REPORTING PROCEDURES**

The Town of Monson Board of Selectmen has designated a Sexual Harassment Grievance Officer. The current Sexual Harassment Grievance Officer is Gretchen E. Neggers. Ms. Neggers can be reached at the Town Of Monson, 110 Main Street, Monson, MA 01057, and her telephone number is (413) 267-4100. Any employee who believes (s) he has been the victim of Sexual Harassment shall report this fact as soon as possible to the Sexual Harassment Grievance Officer. 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.

## **INFORMAL PROCEEDINGS**

The supervisor, individual in the chain of command or sexual Grievance Officer who received the initial complaint may propose informal remedies. If the victim agrees to pursue this approach, the supervisor or the Sexual Harassment Grievance Officer will meet with the alleged harasser, relate the fact that a sexual harassment incident or practice has been reported, and propose a remedy.

If the informal remedy is accepted by the alleged harasser, the situation will be monitored closely by the supervisor and the Sexual Harassment Grievance Officer to determine whether there are further incidents. If the victim reports that the situation has not been rectified or if the alleged harasser declines to agree to informal adjustment, the victim will be encouraged to file a formal complaint.

C. The Board of Selectmen should be notified when a complaint is received and informal proceedings are instituted and the Board of Selectmen shall maintain all records reflecting the substance of the informal remedy agreement.

## **FORMAL PROCEEDINGS**

The victim institutes a formal procedure by filling a written complaint, preferably on a standard form, with the Sexual Harassment Grievance Officer.

A preliminary investigation will be conducted by the Sexual Harassment Grievance Officer, which shall include attempting to obtain a statement from

the alleged harasser. If after completion of the preliminary investigation, it is determined that there is reasonable cause for finding a violation of this policy, the Board of Selectmen will be notified and will notify the complainant and the charged employee of the finding orally. The charged employee will be requested to respond to the extent appropriate in each case. The board of Selectmen will attempt to resolve the matter within thirty business days of receipt of the result of the preliminary investigation.

In a situation where the victim and the alleged harasser will still be working in the same general area or environment during or after the completion of the investigation, it may be necessary or appropriate for the Board of Selectmen to clearly define the terms of the continued professional interaction.

### **CONFIDENTIALITY**

The Town will maintain the confidentiality of the allegations of the complaint, the complainant and the alleged harasser to the extent practical without handicapping the investigation.

### **OTHER LEGAL REMEDIES**

Following the procedures outlined above does not preclude a complaint from seeking legal remedies outside this process. Information about other government agencies available to assist in investigating sexual harassment complaints follows.

The Massachusetts Commission Against Discrimination is located at one Ashburton Place, Boston, MA and at 436 Dwight Street, Springfield, MA, and 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 One Congress Street, Room 1001, Boston, MA. They may be contacted at the above addresses. A complaint under the federal law should be filled within 180 days, but under certain circumstances, a federal complaint may be filled within 300 days.