



## **Town of Hubbardston**

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### **EQUAL EMPLOYMENT OPPORTUNITY, ANTI-DISCRIMINATION AND HARASSMENT POLICY (including SEXUAL HARASSMENT)**

#### **I. PURPOSE**

This Policy describes Hubbardston's prohibition of unlawful discrimination and harassment in the workplace, in order to ensure compliance with all applicable federal laws and state statutes and regulations.

#### **II. APPLICATION**

The Policy applies to all employees of Hubbardston, excluding those employees under the supervision and control of the School Committee and/or Superintendent. Employees whose employment is governed by a collective bargaining agreement are subject only to those provisions of this Policy not specifically regulated by law or agreement.

#### **III. POLICY**

It is the Policy of the Town to promote a professional and productive workplace in which all employees are treated with dignity and respect. Employees are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity. Discrimination, including harassment, whether based upon race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, pregnancy or pregnancy-related condition, genetic information, military service, or other bases prohibited under state or federal anti-discrimination statutes, will not be tolerated. To achieve

the goal of providing a workplace free from discrimination, Hubbardston will implement the procedure described below to address any potential inappropriate conduct.

A. Coverage

This Policy applies to all employment practices and employment programs sponsored by Hubbardston. This Policy shall apply, but not be limited, to the areas of:

- Recruitment
- Selection
- Compensation and benefits
- Professional development and training
- Reasonable accommodation for disabilities or religious practices
- Promotion
- Transfer
- Termination
- Layoff, and
- Other terms and conditions of employment.

This Policy may apply to discrimination (including harassment) that occurs between co-workers that takes place outside the workplace (including, but not limited to, online conduct or conduct utilizing the internet or other electronic media). When the conduct complained of occurs outside of the workplace, Hubbardston may consider the following and other factors in assessing whether the conduct constitutes conduct in violation of this Policy:

- whether the event at which the conduct occurred is linked to the workplace in any way, such as at a Town sponsored function;
- whether the conduct occurred during work hours;
- the severity of the alleged outside-of-work conduct;
- the work relationship of the complainant and alleged harasser, which includes whether the alleged harasser is a supervisor and whether the alleged harasser and complainant come into contact with one another on the job;
- whether the conduct adversely affected the terms and conditions of the complainant's employment or impacted the complainant's work environment.

Because Hubbardston takes allegations of unlawful discrimination and harassment seriously, officials will respond promptly to complaints and, where it is determined that such

inappropriate conduct has occurred, will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this Policy sets forth Hubbardston's goals of promoting a workplace that is free of discrimination and harassment, the Policy is not designed or intended to limit Hubbardston's authority to discipline or take remedial action for workplace conduct which is deemed unacceptable, regardless of whether that conduct satisfies the legal definitions of discrimination or harassment.

#### B. Examples of Prohibited Discriminatory Behavior

It is not possible to list all the circumstances that may constitute discrimination in violation of this Policy. Discrimination may take many forms, including both verbal and nonverbal behaviors. Prohibited behavior includes, but is not limited to, the following behaviors connected to someone's membership in one or more groups protected by law as noted in the first paragraph above: slurs or other derogatory comments; sharing demeaning pictures, cartoons, or jokes; demeaning gestures; and any conduct constituting sexual harassment.

#### C. Definition of Sexual Harassment

*Sexual Harassment* – That conduct, including unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, which may constitute sexual harassment when:

- 1) submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment;
- 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

*Hostile Work Environment* – A form of sexual harassment, where pervasive and sexually hostile working conditions unreasonably interfere with an employee's ability to do his or her job.

*Quid Pro Quo* – Another form of sexual harassment, where tangible job benefits are offered or withheld in exchange for sexual favors.

Note: 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 body, comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, 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.

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 constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually-oriented 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. This can include conduct that is aimed at a person's sexual orientation or gender identity.

#### **IV. PROCEDURES**

##### **A. Complaints of Sexual Harassment**

If an employee believes that the employee has been subjected to sexual harassment, it is Hubbardston's policy to provide the employee with the right to file an internal complaint. This may be done orally or in writing. An employee may file a complaint of sexual harassment by contacting the appointed sexual harassment officers. These appointed officers, male and female, will be identified annually as part of the appointment process. Alternatively, an employee may file a complaint with the Town Administrator or Board of Selectmen. These persons will remain available to discuss any concerns employees may have and to provide information about Hubbardston's Policy on sexual harassment and the complaint process.

##### **B. Sexual Harassment Investigation**

When a complaint of sexual harassment is received, Hubbardston will promptly investigate the allegation 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.

Hubbardston's investigation will include a private interview with the person filing the complaint and with any witnesses. Hubbardston will also interview the person alleged to have committed sexual harassment. When the investigation has concluded, Hubbardston will, to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, Hubbardston will act promptly to eliminate the offending conduct, and where appropriate, impose disciplinary action.

C. Complaints Concerning Other Forms of Discrimination and/or Harassment

Complaints alleging forms of discrimination and/or harassment, other than sexual harassment, will be processed in accordance with Section IV - B, whenever appropriate.

D. Confidentiality

Given the sensitive nature of complaints of discrimination and/or harassment, all parties and witnesses in a complaint, as well as department heads, supervisors, etc. who are aware of a complaint or investigation thereof, are strongly encouraged to maintain this information as confidential, so as not to negatively impact an investigation. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

All employees are reminded of the provisions of the Conflict of Interest Law, particularly G.L. c.268A, § 23(2), which prohibit a municipal employee or official from improperly disclosing information that is protected from disclosure under the Public Records Law, and acquired by an employee or official in the course of official duties. General Laws c.268A, §23 also prohibits a municipal employee or official from using such information to further the employee's/official's personal interest. Violations of this statute may lead to disciplinary action, up to and including termination.

E. Retaliation

Any retaliation against an individual who has formally or informally complained about discrimination, including harassment, or has cooperated with an investigation of a discrimination complaint, is prohibited.

Retaliation can be overt or subtle. Retaliation may include, but is not limited to, treating a complainant or witness differently, more harshly or in a hostile manner; physical interference with movement such as blocking a path; derogatory comments or action which would tend to

have a chilling effect on other complainants; sudden investigations of the complainant's private life, or; sudden strict enforcement of work rules. Retaliation in any form will not be tolerated.

**V. SANCTIONS**

If it is determined that inappropriate conduct has been committed by an employee, Hubbardston will take such action as is appropriate under the circumstances. Such actions may include: counseling, informal or formal reprimands, written or verbal warnings, suspension, reduction in pay, reduction in duties, transfers, and other formal sanctions, including termination from employment.

**V. STATE AND FEDERAL REMEDIES**

In addition to the above, if an employee believes that the employee has been subjected to sexual harassment, the employee may file a formal complaint with either or both of the government agencies listed below. Using Hubbardston's complaint process does not prohibit an employee from filing a complaint with either of these agencies. Please note that both agencies have a short time period for filing a claim (300 days).

1. The United States Equal Employment Opportunity Commission (EEOC)

John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203  
Phone: (800) 669-4000 TTY: (800) 669-6820

2. The Massachusetts Commission Against Discrimination (MCAD)

Boston Office  
One Ashburton Place Sixth Floor,  
Room 601 Boston, MA 02108  
Phone: 617-994-6000  
TTY: 617-994-6196

Worcester Office  
Denholm Building  
484 Main Street, Suite 320  
Worcester, MA 01604  
(508) 453-9630

Springfield Office  
436 Dwight Street Second Floor,  
Room 220  
Springfield, MA 01103  
(413) 739-2145

New Bedford Office  
Demello International Center  
128 Union Street, Suite 206  
New Bedford, MA 02740  
(774) 510-5801

## **VI. REASONABLE ACCOMMODATIONS**

Hubbardston will not discriminate against people with disabilities in any employment practices or in terms, conditions or privileges of employment, including, but not limited to: application, testing, hiring, assignment, evaluation, disciplinary action, training, promotion, medical examination, layoff/recall, termination, compensation, leaves or benefits. Hubbardston will make reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability, unless such action would cause an undue hardship to the operations of the Town.

In addition, the Town complies with the provisions of G.L. c. 151B, §1E, requiring certain reasonable accommodations for an employee's pregnancy or pregnancy-related condition. Employees seeking reasonable accommodations may submit their request in writing to the Town Administrator ([admin@hubbardstonma.us](mailto:admin@hubbardstonma.us)).

## **VII. PREGNANT WORKERS FAIRNESS ACT**

### Reasonable Accommodations

An employee working for Hubbardston has a right to reasonable accommodation with respect to pregnancy and/or any condition resulting from pregnancy, so that the employee may perform the essential functions of the job, unless the requested accommodation will cause an undue hardship on the Town. These accommodations can include, for example: frequent or longer paid or unpaid breaks; time off to recover from childbirth or complications from pregnancy, with or without pay; acquisition or modification of equipment or seating; temporary transfer to a less strenuous or hazardous position; job restructuring and/or modified work schedule; light duty and/or assistance with manual labor; and private non-bathroom space for expressing breast milk. Hubbardston may request documentation from the employee's health care provider(s) about the need for a reasonable accommodation, except in the cases of requests for: more frequent restroom, food or water breaks; seating; limits on lifting more than 20 pounds; and private non-bathroom space for expressing breast milk.

Contact the Town Administrator with questions about, or requests for reasonable accommodation under, the Pregnant Workers Fairness Act.

## **IX. EQUAL EMPLOYMENT OPPORTUNITY STATEMENT**

Hubbardston will not discriminate in its employment practices, on the basis of race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, pregnancy or pregnancy-related condition, genetic information, military service, or another

basis prohibited under state or federal antidiscrimination statutes. This shall include such areas as recruitment, selection, compensation and benefits, professional development and training, reasonable accommodation for disabilities or religious practices, promotion, transfer, termination, layoff, and other terms and conditions of employment.

EQUAL EMPLOYMENT OPPORTUNITY, DISCRIMINATION, AND SEXUAL HARASSMENT POLICY  
ACKNOWLEDGEMENT

This acknowledges that I have received and reviewed the Town of Hubbardston's Equal Employment Opportunity, Discrimination, and Sexual Harassment Policy ("Policy"). By signing this form, I agree to abide by the Policy and any Guidelines promulgated thereunder, and I agree to review periodically any changes or modifications. I recognize that the law and associated Policy regarding discrimination and harassment are continually evolving. Therefore, I understand that my regular review of this Policy, as it may be amended, is required.

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

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

To be included in employee's personnel file.