



# **CITY OF SOMERVILLE**

## **ANTI-HARASSMENT /ANTI-DISCRIMINATIONPOLICY**

### **POLICY STATEMENT**

It is the goal of the City of Somerville to promote a workplace that is free of unlawful harassment or discrimination based on sex, sexual orientation, race, color, religious creed, national origin, ancestry, genetics, veteran's status, disability, age or any other "protected category". The City prohibits such harassment or discrimination, whether at the office, in outside work assignments or at City-sponsored social or nonsocial functions, events or programs. Should such harassment or discrimination occur the City will take appropriate corrective action to prevent its continuation and/or recurrence. In addition, the City will make an effort to prevent the harassment or discrimination of its employees by persons who are not City of Somerville employees, but who are on the City's premises or who have a business or other relationship with the City.

The City of Somerville is committed to maintaining a work environment in which employees are treated fairly and in accordance with all applicable laws. Through enforcement of this policy, the City strives to prevent inappropriate conduct that could be considered harassment or discrimination, including sexual harassment. In addition, the City is committed to correcting any inappropriate conduct and those who violate this policy will be subject to disciplinary action up to and including termination of employment.

All employees of the City, regardless of position, are covered by, and are expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur. This policy also extends to City property, including but not limited to its telephones, copy machines, facsimile machines and computers and computer applications, such as email and internet access. City property shall not be used to engage in conduct that violates this policy.

### **DISCRIMINATION DEFINED**

Unlawful discrimination occurs when an employee is subjected to harassment and/or unequal and unfair treatment because of his or her membership in a protected category. It is against City policy to engage in physical, visual, verbal and non-verbal conduct that degrades or shows hostility or unfair treatment toward an employee because of an employee's race, color, religious creed, sex, national origin, ancestry, sexual orientation, pregnancy, veteran's status, military service, age, marital status, genetic information, disability or any other basis protected by federal, state, or local law or ordinance.

#### **A. Unfair Treatment**

The City is committed to the principle of equal opportunity and equal treatment for all of its employees. Arbitrary, different and unequal treatment based on an employee's membership or perceived membership in a protected category is illegal and is prohibited.

Personality differences or conflicts with co-workers and/or treatment not based on one or more protected categories are considered employee relations issues and are handled accordingly.



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### **B. Harassment**

Workplace harassment is any unwanted or undesirable conduct that puts down or shows hostility or an aversion toward another person based upon membership or perceived membership in a protected category in the workplace. Harassment includes communicating, sharing or displaying written or visual material, including material or comments intended as humor, or making verbal comments that are demeaning or derogatory to a person because of his or her sex, sexual orientation, race, color, religious creed, national origin, ancestry, age, genetics, membership in the military, veteran's status or disability. The use of any City facilities to disseminate, duplicate or display such materials is prohibited.

Harassment includes but is not limited to:

- Verbal harassment, e.g., epithets, derogatory comments or slurs;
- Physical harassment, e.g., assault, impeding or blocking movement, or any physical interference with normal work or movement, when directed at an individual;
- Visual forms of harassment, e.g., derogatory posters, cartoons, or drawings.

Examples of unwelcome conduct prohibited by this policy include but are not limited to:

- Conduct that unreasonably interferes with an individual's work performance, that creates an intimidating or offensive work environment, that adversely affects an individual's employment opportunities and that implicates an employee's race, color, religious creed, sex, national origin, ancestry, sexual orientation, pregnancy, veteran's status, military service, age, marital status, genetic information, disability or any other basis protected by federal, state, or local law or ordinance.
- Hostile physical contact, intimidating acts, threats of such actions or violence, or any other actions that may be considered threatening or hostile in nature and that implicates an employee's race, color, religious creed, sex, national origin, ancestry, sexual orientation, pregnancy, veteran's status, military service, age, marital status, genetic information, disability or any other basis protected by federal, state, or local law or ordinance.
- Derogatory remarks, epithets, slurs, negative stereotyping, offensive jokes, teasing, the display or circulation of offensive printed, visual or electronic materials or similar misconduct that implicates an employee's race, color, religious creed, sex, national origin, ancestry, sexual orientation, pregnancy, veteran's status, military service, age, marital status, genetic information, disability or any other basis protected by federal, state, or local law or ordinance.

### **C. Sexual Harassment**

It is the goal of the City to promote a safe work environment free of sexual harassment and to enforce adherence and compliance with all state and federal laws pertaining to sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated.



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The legal definition for sexual harassment in Massachusetts is as follows:

“Sexual harassment” means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature where:

- (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.

For example, 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 or discrimination.

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.

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 verbal 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 or other inappropriate contact, sexual gestures, suggestive or insulting comments;
- Inquiries into one’s sexual experiences; and
- Discussion of one’s sexual activities.

An employee does not have to be the direct recipient of the unwelcome and offensive conduct in order to file a complaint. Anyone affected and/or offended by the conduct can file a complaint.

Sexual harassment need not be restricted to the actual workplace or City property. It could occur at any City-sponsored work program, conference, or activity where employees are in contact with each other.



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There is no legal requirement that the alleged victim personally confront the harasser to ask him or her to stop. However, the alleged harassment must be reported in a timely fashion in insure that the rights of both the person making the allegation as well as the accused are respected.

All City employees are responsible for reporting incidents of possible sexual harassment. Managers and supervisors must promptly investigate and report to the Personnel Department any allegation of sexual harassment brought to their attention.

### **RIGHTS AND RESPONSIBILITIES**

#### **A. Employee Responsibilities**

1. Personal Conduct

Each employee of the City of Somerville is personally responsible for ensuring that his or her conduct does not harass or discriminate against any other employee or non-employee in the workplace.

2. Duty to Report

Employees are required by law to report any instances of unlawful discrimination and harassment of which they have knowledge either to their superiors or to the Personnel Department. Failure to report instances of alleged illegal discrimination and harassment may result in disciplinary action.

3. Duty to Cooperate

Each employee must cooperate in any investigation of alleged harassment if requested to do so by the person conducting the investigation. Likewise, refusal by an employee to cooperate with an investigation of a complaint of discrimination or harassment may subject that employee to disciplinary action.

#### **B. Management Responsibilities**

It is the responsibility of all management personnel to strictly enforce the terms of this policy. Supervisors, managers, or department heads who become aware of incidents of harassment or discrimination in their departments, even in the absence of a formal complaint, should take appropriate actions to eliminate the conduct. Supervisors and managers should seek further information and guidance from the Personnel Department.

#### **C. Employee Rights**

1. Right to a Workplace Free of Harassment and Discrimination

All employees have the right to work in an environment free of unlawful discrimination and harassment. In addition, all employees have the right to equal opportunity.



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### 2. Right to File Complaint

If any City employee believes that s/he has been subjected to harassment or any type of discrimination, the employee has the right to file a complaint. This may be done in writing or orally. City Employees may file a complaint by contacting the Director of Personnel, or by contacting their direct supervisor. These persons are available to discuss any concerns you may have and to provide information to you about the City's policy on harassment or discrimination and its complaint process.

### 3. Freedom From Retaliation

All City employees have the right to file a complaint or bring to light any instance of discrimination and harassment under this policy without fear that they could be subject to adverse employment actions. Any retaliation against an individual who has either complained about harassment and/or discrimination or has cooperated with the investigation of a complaint is unlawful and will not be tolerated. The filing of a complaint and participation in the investigation are protected activities under the law. Therefore, any retaliation for engaging in these activities also violates the law.

Any employee found to have violated this policy will be subject to disciplinary action which could include termination of employment.

### 4. Confidentiality

While the City cannot guarantee complete confidentiality given the nature of the investigatory process, to the extent possible, the City will respect and protect the privacy and confidentiality of any employee involved in the filing of a complaint and/or its investigation. However, employees should be advised that the issue of confidentiality will be balanced against the City's legal obligation to investigate and to take appropriate remedial action.

## COMPLAINT PROCESS AND PROCEDURE

### **A. Investigation**

When the City receives a complaint, the City 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. The City's investigation will include a private interview with the person filing the complaint and with witnesses. The City will also attempt to interview the person alleged to have committed the harassment or discrimination. When the City has completed the investigation, the City will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the result of that investigation.

Because the City takes allegations of harassment or discrimination seriously, it will respond promptly to complaints of harassment or discrimination and, where it is determined that such



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inappropriate conduct has occurred, will act promptly to prevent the conduct from continuing or reoccurring and impose such corrective action and/or disciplinary action as appropriate and necessary.

### **B. Discipline or Remedial Action**

If it is determined that inappropriate conduct has been committed by one of our employees, the City will take such disciplinary action as is appropriate under the circumstances. Such action may range from counseling to termination of employment.

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

### **ADDITIONAL RESOURCES**

In addition to the above, if you believe that you have been subjected to unlawful harassment and/or discrimination, you may file a formal complaint with either or both of the government agencies set forth below. Please be advised that both agencies have a statutory time period for filing a claim (EEOC – 300days; MCAD –300 days). The statutory time period begins to toll or accrue from the date the alleged discriminatory act occurred, unless the act is of a continuing nature.

#### The United States Equal Employment Opportunity Commission (“EEOC”)

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

#### The Massachusetts Commission Against Discrimination (“MCAD”)

##### **Boston Office:**

One Ashburton Place, Room 601  
Boston, MA 02108  
(617) 727-3990

##### **Springfield Office:**

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

##### **Worcester Office**

Worcester City Hall  
455 Main Street, Room 101  
Worcester, MA 01608  
(508) 799-8010  
(508) 799-8490 - FAX

##### **New Bedford Office**

800 Purchase Street, Room 501  
New Bedford, MA 02740  
(508) 990-2390



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Please respond to the following questions:

1. Do you understand the policy that you have just reviewed? \_\_\_\_\_
2. Do you understand the process for filing a complaint? \_\_\_\_\_
3. Do you understand your responsibilities for a harassment-free workplace as outlined in this policy (e.g., not to engage in harassing behavior, to report instances of potential harassment, etc.)?  
\_\_\_\_\_

**Employee's Signature:** \_\_\_\_\_

**Name (print):** \_\_\_\_\_

**Department:** \_\_\_\_\_

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

**Name and title of person who reviewed this policy with you (please print):**  
\_\_\_\_\_

**PLEASE RETURN SIGNED ORIGINAL TO THE PERSONNEL DEPARTMENT FOR  
PLACEMENT IN YOUR PERSONNEL FILE.**