



# Town of Lexington

## Police Department

<b>Subject:</b> Harassment and Sexual Harassment	
<b>Effective Date:</b> 11-1-2011	<b>Revised Date:</b> Annually
<b>By Order of:</b> Mark J. Corr, Chief of Police	

### Policy & Procedure

# 26A

## GENERAL CONSIDERATIONS AND GUIDELINES

It is the policy of the Lexington Police Department to strictly protect any employee, volunteer, or visitor from being harassed in any manner. The goal of this policy is to insure that:

- 1) Every member of the general public will be provided fair, equitable service and treatment by every person working for the Lexington Police Department, and
- 2) Every employee of the Lexington Police Department will be provided a respectful work environment.

***The language and content of Policy 26A is primarily the Town of Lexington policy with minor editing so that it is directed to the employees of the Department.***

The **Town Manager of Lexington has established** the following harassment policy that is applicable to all employees of the Town of Lexington. For those employees covered by Collective Bargaining Agreements, the provisions of the CBA subject to negotiation prevail over the language in this policy (i.e. discipline). Any changes made to this policy that apply to sections that are subject to collective bargaining will be sent to the appropriate union prior to implementation.

### **Harassment and Sexual Harassment Prohibited**

*It is the goal of the Town of Lexington to promote a workplace that is free of discriminatory harassment ("harassment") of any type, including sexual harassment. Discriminatory harassment consists of any unwelcome conduct that is personally offensive, whether verbal or physical that is based on a*

*characteristic protected by law and which otherwise fails to respect the rights of others. All Town employees are 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. 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. Retaliation against persons complaining about harassment or sexual harassment, or retaliation against individuals for cooperating with an investigation of a harassment complaint, is also unlawful and prohibited by this policy. Harassment in retaliation for formal or informal participation in filing an internal or external complaint of discrimination or otherwise raising a concern regarding discrimination will also not be tolerated.*

## DEFINITIONS

- A. **Harassment in General.** Harassment is unwelcome verbal or physical conduct, directed at an individual because of that individual's race, color, religious creed, national origin, sex, sexual orientation, age, genetic information, ancestry, marital status, veteran status or membership in the armed service, or based on the handicap of any person alleging to be a qualified handicapped person, or because of past participation in discrimination complaint-related activities, where such conduct disrupts or interferes with another's work performance, or which creates an intimidating, offensive, or hostile environment. The term "sexual orientation" shall mean having an orientation for or being identified as having an orientation for or being identified as having an orientation of heterosexuality, bisexuality or homosexuality.
- B. **Examples of Harassment.** Harassment includes the use of insulting epithets, slurs, derogatory comments, or nicknames; the display of insulting or offensive objects, cartoons, pictures, slogans, demeaning gestures or symbols; intimidation through physical violence or threats of violence; and preferential treatment of certain employees based on membership in a particular class.
- C. **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:

- 1) 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

- 2) Such advances, requests or conduct have the purpose or effect of unreasonably interfering with the 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 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 any person may also constitute sexual harassment.

D. **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. 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; comments on 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, suggestive or insulting comments;
- Inquiries into one's sexual experiences; and
- Discussion of one's sexual activities.

## PROCEDURES

A. Prevention of Harassment

1. **Supervisors and co-workers** can avoid harassing behavior by treating the workplace as a professional environment and by using common sense. If any employee or manager would not feel comfortable making or hearing a particular comment about a family member, a friend or any individual of their own race, national origin, religion, etc., the employee

or manager should not make the comment in question to another person.

2. **Prevention efforts include**, but are not limited to: informing employees of this policy on an annual basis, training employees regularly, communicating the sanctions imposed for violating this policy, and providing a reporting hierarchy within which to report incidents of harassment without fear of reprisal. Because the Town of Lexington takes allegations of harassment seriously, the Town will respond promptly to complaints of harassment. Where 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 where appropriate.
3. **Persons Covered.** This policy prohibits harassment by, or directed to, all Town employees, (including but not limited to non-supervisory, supervisory, management and executive personnel), volunteers, applicants for employment, contractors for the Town, visitors and all others on Town property.

B. Complaint Investigation Procedures

1. Complaint

- a. Any employee or other individual covered by this policy 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 following Harassment Grievance Officers:
  - i. Chief Mark J. Corr, Lexington Police, (781) 862-1212 x300,
  - ii. Captain Joseph O’Leary, Lexington Police, (781) 862-1212 x305,
  - iii. Denise Y. Casey, Human Resources Director at (781) 862-0500 x261; or
  - iv. Carl F. Valente, Town Manager at (781) 862-0500 x275.
  - v. If these individuals are the source of the harassment, or there are other compelling reasons that prevent bringing the problem to the attention of the Harassment Grievance Officers, then the employee may report the harassment to Linda Crew Vine, Deputy Town Manager at (781) 862-0500 x273. The Harassment Grievance Officers are also available to provide information about the Town’s policy on harassment, as well as the complaint process.
- b. 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 Officer, or other person designated by the Town.

- c. Any supervisor, manager or other employee who becomes aware of harassment prohibited by this policy must report it **immediately** to one of the Harassment Grievance Officers, or other person designated by the Town.
2. Investigation
  - a. All complaints of harassment will be investigated promptly and impartially by the Harassment Grievance Officer(s) or by another qualified individual selected by the Town Manager.
  - b. 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.
  - c. Ordinarily, as circumstances permit, the Town’s investigation will include private interviews with appropriate individuals, such as the complainant, the employee alleged to have committed harassment, and with witnesses, if any.
  - d. 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.
  - e. If either employee is dissatisfied with the handling or result of the investigation, the employee should bring the matter immediately to the Town Manager, preferably in writing, stating the reasons for that dissatisfaction.
3. Corrective Action: In the event that allegations of harassment are substantiated after investigation, the Town will take prompt and effective action to ensure that the offending conduct has ceased and, if necessary under the circumstances, will implement affirmative measures to ensure that such conduct does not recur. Additionally, persons found 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 any Town employee who engages in inappropriate conduct, regardless of whether it satisfies the definition of harassment or sexual harassment under this policy.
4. 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 the Harassment Grievance officers using the procedure set forth in this policy for complaints of harassment.

Employees should be aware that making knowingly false accusations will be considered misconduct, and could subject the employee to civil suit by the target of the false accusations.

- C. State and Federal Remedies: In addition to the above, if you believe you have been subjected to harassment of any type, 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 requires that claims be filed within 300 days from the alleged incident of when the complainant became aware of the incident.

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

One Congress Street, 10<sup>th</sup> Floor  
Boston, MA 02114  
(617) 565 -3200

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

Boston Office:  
One Ashburton Place, Room 601  
Boston, MA 02108  
(617) 994-6000

Springfield Office:  
424 Dwight Street, Room 220  
Springfield, MA 01103  
(413) 739 – 2145

Employees are also encouraged to call the Town’s Employee Assistance Program, a confidential counseling service offered to employees and their immediate family members.

The contact information for the EAP is posted on Department bulletin boards. Additional information is available on the Intranet; extra brochures are available in the Human Resources Department.