

	Policy & Procedures				No. 4.17	
	Subject: Unlawful Harassment Discrimination Policy					
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					References:	
Review						
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CALEA STANDARDS: 26.1.3

I. POLICY STATEMENT:

It is the policy of the Canton Police Department to maintain a working environment free from any form of discrimination and any form of harassment, sexual harassment, inappropriate or disrespectful conduct, and communication of a disparaging or sexual nature. The Town will not tolerate conduct which creates an intimidating, hostile, humiliating, or sexually offensive workplace or work environment. Any form of discrimination or unlawful harassment of any Town employee by another employee, a supervisor, or an officer of the Town is unlawful and prohibited. **26.1.3 (1A,B)**

The Canton Police Department recognizes the importance of an employee's right to work in a non-hostile environment regarding sexual harassment and all other forms of unlawful harassment and discrimination. To that end, the Canton Police Department will take all reasonable actions to ensure that no employee be subjected to any form of unlawful harassment or discrimination by any member of the public.

II. DEFINITIONS:

- A. Sexual Harassment: Unwelcome sexual advances, requests for sexual favors, and other 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 a basis for employment decisions; (b) where sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature creates a hostile, humiliating, intimidating or offensive work place environment, whether intended or not, which materially interferes with the employee's ability to perform the job.

“Sexual harassment” for purposes of this policy shall include the definitions of sexual harassment as stated in guidelines issued by the United States Equal Employment Opportunity Commission (EEOC) in connection with Title VII of the Civil Rights Act of 1964 and Massachusetts General Laws, Chapter 151B, Section 3A, and Title I of Civil Rights Act of 1991.

- B. Unlawful Harassment Any conduct that denigrates or show hostility toward an individual(s) because of his/her race, color, religious creed, national origin, sex, sexual orientation, ancestry, age, handicap or other such category protected under the law that has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, humiliating, hostile or offensive work environment.
- C. Discrimination The unequal and unlawful treatment of persons in employment related decisions because of race, color, religious creed, national origin, sexual orientation, ancestry, age, handicap or other such category protected under the law.
- D. Employee A person hired or authorized to perform work, or carry out tasks, duties, or responsibilities on behalf of the Canton Police Department, whether or not the person receives compensation for these activities. A supervisor, department head, or officer of the Canton Police Department is an employee of the Canton Police Department for purposes of this policy. An independent contractor or any employee of any independent contractor shall not be considered an employee of the Canton Police Department for purposes of this policy unless the independent contractor performs his/her work for the Canton Police Department in a work place controlled by the Canton Police Department and under the supervision of a Canton Police Department employee.
- E. Workplace Any office, building, facility, vehicle, indoor area, or outdoor area under the control of the Canton Police Department in which any employee is expected or required to carry out the functions of his/her position.
- F. Respondent(s) The person(s) accused of sexual harassment.
- G. Supervisor The person to whom an employee reports or is responsible for the performance of his/her assigned duties on a daily basis.

III. PROHIBITED CONDUCT

- A. No employee or supervisor shall engage in any action towards any other Canton Police Department employee which shall constitute sexual harassment under this policy. Specifically, no one shall threaten or insinuate, either explicitly or implicitly, that an employee’s refusal to submit to sexual advances will in any way adversely affect the employee’s employment, evaluation, salary, assignment, scheduling, or any other condition or employment or career progress. No one shall engage in such behavior that may create an offensive or hostile work environment.

In addition, all employees are protected from harassment on the basis of their race, color, religion, national origin, ancestry, sex, gender identity, age, handicap (disability), participation in discrimination complaint-related activities, sexual orientation, genetics, or active military or veteran status.

B. 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 sexual 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

The following are some examples of conduct that may constitute unlawful harassment:

- Slurs or other derogatory comments, objects, pictures, cartoons, or demeaning gestures connected to one's membership in a protected group.

The following are some examples of conduct that may constitute discrimination:

- Employment decisions solely on the race of different applicants; or
- Assignments solely on the age of an employee

IV. SUPERVISOR'S RESPONSIBILITY

- A. Every supervisor shall communicate the Canton Police Department's Unlawful Harassment and Discrimination policy to his/her staff and shall provide positive assurance that no employee is required to endure any form of harassment, sexual harassment or discrimination.
- B. Any supervisor in charge of a work place who knows of any harassment, sexual harassment or discrimination shall take appropriate remedial action to stop, correct, or terminate the behavior. This action shall be taken even if no complaint is filed by an employee in connection with such harassment or discrimination.

- C. No supervisor in charge of a work place shall permit any form of harassment, sexual harassment or discrimination to be directed at any employee in the work place by any vendor, customer, members or the public or any other person present in the work place.

V. PROCEDURE

A. Reporting a charge of harassment or discrimination: **26.1.3 (1C,G)**

Any employee who feels he/she has been or is being subjected to any form of discrimination or unlawful harassment should document, in written detail, the incident(s) or conduct and report it immediately, either in writing or in person, to a Supervisor. If the harassment or discrimination is by a Supervisor, the employee is to report it, either verbally or in writing, to the next level of command. An employee making a claim should be willing to cooperate in the investigation of the claim (See Procedure C). **26.1.3 (1D)**

B. Retaliation: **26.1.3 (1E)**

In all instances in which a complaint is made, the employee making the complaint, or any witness involved in an investigation, will be afforded protection from retaliation. Any form of retaliation against a complainant or witness is unlawful and prohibited and will result in appropriate disciplinary action.

As with all other job-related concerns, it is preferable that an employee report a charge of discrimination or sexual harassment to his/her immediate supervisor or to the Chief of Police. The important thing, however, is that the matter be reported and dealt with properly. Therefore, if an employee does not wish to report a charge of discrimination or sexual harassment within his/her department, the employee may report to one of the following people outside of his/her work unit: The Town's Human Resource Administrator/EEOC Officer (781) 821-2936, the Town's Administrator (781) 828-5000. The Employee Assistance Program (EAP) is, of course, available for consultation and counseling regarding discrimination and sexual harassment, but consultation with EAP will not result in follow-up and investigation. **26.1.3 (1H)**

A Supervisor who receives a complaint shall report the charge to the Chief of Police through the proper chain of command, when possible, unless the charge involves the Chief of Police. In such case, the Supervisor is directed to report the charge to the Town Administrator.

The Chief of Police, the Town Administrator, or the EEOC Officer may discuss the written complaint with the person bringing the charge if it is necessary to determine if the allegation falls within the scope of the Sexual Harassment Policy. If the Chief of Police or the Town Administrator determines that inappropriate conduct has occurred, the complaint will be dealt with appropriately. If a positive determination is made, the Chief of Police will ensure an impartial investigation is conducted.

All complaint receivers and investigators shall be thoroughly educated in the matter of sexual harassment charges and trained to pursue complaints in a neutral

and unbiased manner. All investigations will be in accordance with the Town's specified procedures and guidelines.

C. Confidentiality:

Confidentiality in the investigation is of the utmost importance to protect the complainant, respondent and the employer. Lack of confidentiality may lead to damaged careers/reputations and may undermine confidence and trust in the employer. All communications regarding the complaint, both written and oral, should be confidential. Information should be disclosed only on a need to know bases and with the understanding that the recipient has a duty to preserve confidentiality.

D. Investigation:

All complaints shall be investigated by a trained and unbiased investigator assigned by the Chief of Police. Any investigation shall be thorough and impartial and shall be pursued with all practical discretion and confidentiality in a timely manner. However, the rights of the respondent(s) shall not be comprised by such confidentiality. If the conduct of any Town employee(s) forms the basis of the complaint, the person investigating the complaint shall give the person allegedly behaving in an offensive way an opportunity to discuss and respond to the complaint; however, this procedure is not a criminal procedure and the respondent does not have the right to question the complainant directly.

At the conclusion of the investigation, the person investigating the complaint shall recommend to the Chief of Police a finding with regard to the complaint and the behavior of the respondent. The basis for a finding in this administrative procedure is the "preponderance of evidence" (not the "innocent until proven guilty beyond a reasonable doubt" basis that applies to criminal procedures). The Chief of Police shall inform the complainant and respondent of the results of the investigation.

E. Disciplinary Action: 26.1.3 (1F)

If it is determined that inappropriate conduct has been committed by an employee, the Town will take such action 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 the Chief of Police deems appropriate under the circumstances.

Discipline not limited to, the following:

1. Informal counseling of an offending party with a verbal warning as to the consequences of a repeat offense;
2. Referral of the parties to a mediation program if both parties are willing to pursue mediation;
3. Enrollment of an offending party in an appropriate training program;

4. A formal letter of reprimand will be sent to the offending party. A copy of the letter of reprimand will be placed in the offending party's personnel file to be removed in two (2) years if no further incidents occur;
5. Up to a maximum 30-day suspension without pay;
6. Demotion;
7. Involuntary termination of the employment of the offending party;
8. Any combination of the above.

In any complaint which is found to involve sexual harassment, the discipline shall be determined by the Chief of Police.

F. Records:

Every Discrimination and Sexual Harassment Complaint shall be forwarded to the Chief of Police through the chain of command whenever possible. All reports of investigation, recommendations, and dispositions will be forwarded to the Chief of Police when complete. Sanctions also will be filed in individual personnel files in accordance with the Town's personnel bylaw/collective bargaining agreements.

G. Appeal:

If the complainant or respondent disagrees with the recommendation of the Chief of Police as to the course of action, the complainant or respondent may take the complaint to the Town Administrator. The Town Administrator shall review the complaint and the investigation and may, if it appears warranted, conduct a separate investigation into the complaint. If merit is found in the complaint, the Town Administrator or the EEOC may initiate any of the courses of action of this policy or any other course of action as may be appropriate.

H. Liability and Sanctions: 26.1.3 (1F)

Employees may be personally liable if they engage in harassing, sexually harassing or discriminatory behavior.

Any employee found to have engaged in harassment, sexual harassment or discrimination in violation of this policy is subject to disciplinary action up to and including termination.

Supervisors may potentially be personally liable if they knew or should have known about incidents of sexual harassment, and did not take appropriate corrective action.

The Department may not be held responsible in harassment, sexual harassment and discrimination cases if it can show that it took prompt and appropriate corrective action.

I. Distribution of Policy: 26.1.3 (1K,L)

This policy shall be given to each employee as soon as possible upon hiring, and annually thereafter. A copy shall be made available by any officer upon request. A permanent copy will be made on the Town's I-Drive for easy accessibility by all department employees.

J. State and Federal Remedies: 26.1.3 (1 I,J)

In addition to the above, if any department employee believes they have been subjected to discrimination or any unlawful harassment, they may file a formal complaint with either or both of the governing agencies set forth below. Using our complaint process does not prohibit one from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC – 180 days; MCAD – 6 months).

The United States Equal Employment Opportunity Commission (US EEOC)
JF Kennedy Federal Building
Government Center, Room 475
(617) 565-3200

The Massachusetts Commission against Discrimination (MCAD)	
Boston Office:	Springfield Office:
One Ashburton Place – Room 601	State Office Building
Boston, MA 02108-1516	436 Dwight Street
(617) 727-3990	Springfield, MA 01103
	(413) 739-2145

State Office of Affirmative Action
One Ashburton Place, Room 213
Boston, MA 02108-1516
(617) 727-7441

U.S. Equal Employment Opportunity Commission (EEOC)
One Congress Street, 10th Floor
Boston, MA 02114
(617) 565-3200 or 800-669-4000