



**Town of Burlington
29 Center Street
Burlington, MA 01803**

NOTICE OF NON-DISCRIMINATION

The Town of Burlington does not discriminate on the basis of any characteristic protected by law, including race, color, religion, age, gender, sexual orientation, gender identity, gender expression, disability, pregnancy or condition related to the pregnancy, national origin, ancestry, protected genetic information, veteran status, military service or other characteristics identified as being protected by applicable federal or state laws in the administration of its programs or activities, as required by applicable laws and regulations.

The Town is responsible for coordination of compliance efforts and receipt of inquiries concerning the non-discrimination requirements of 40 CFR Parts 5 and 7; Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title IX of the Education Amendments of 1972; Title II of the Americans with Disabilities Act of 1990; Section 13 of the Federal Water Pollution Control Act Amendments of 1972; and other applicable federal non-discrimination laws.

If you have any questions about this notice or any of the Town of Burlington's non-discrimination programs, policies, or procedures, you may contact:

Joanne M. Faust, Civil Rights Coordinator and
Human Resources Director
Town of Burlington
29 Center Street, Burlington, MA 01803
TEL: (781) 505-1160
EMAIL: jfaust@burlington.org

If you believe that you have been discriminated against with respect to a Town of Burlington program or activity, you may contact the Civil Rights Coordinator identified above to learn how and where to file a complaint of discrimination, or review the procedure outlined in the Town's Policy Against Discrimination, Harassment, Retaliation, or Intimidation. The Civil Rights Coordinator can also be contacted if assistance is required in filling out any documentation.



Town of Burlington
29 Center Street
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NON-DISCRIMINATION, ANTI-HARASSMENT, AND NON-RETALIATION POLICY

Policy Against Discrimination, Harassment, Retaliation, or Intimidation

The Town of Burlington (the “Town”) is committed to maintaining an environment that is free from discrimination and harassment. It is the policy of the Town to ensure full compliance with state and federal non-discrimination laws in all programs and activities. The Town will not discriminate on the basis of race, color, religion, age, gender, sexual orientation, gender identity, gender expression, disability, pregnancy or condition related to the pregnancy, national origin, ancestry, protected genetic information, veteran status, military service or other characteristics identified as being protected by applicable federal or state laws in any Town programs, services, or activities.

Title VI of the Civil Rights Act of 1964 (“Title VI”) prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. The Americans with Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act (“Section 504”) prohibit discrimination on the basis of disability by state or local government agencies and recipients of federal financial assistance.

Discrimination includes, but is not limited to, excluding an individual from participation in or denying an individual the benefits of any program or activity receiving Federal financial assistance due to the individual’s race, color, national origin, sex, age, or disability.

The Town does not exclude, deny benefits to, or otherwise discriminate against any person on the basis of race, color, religion, ancestry, ethnic group identification, national origin, creed, disability, medical condition, genetic information, marital status, age, veteran status, or sex (including actual or perceived sexual orientation or gender identity) in the administration of its programs or activities.

Further, retaliation against an individual who has complained in good faith about discrimination or harassment, or has cooperated with an investigation of a discrimination or harassment complaint, will not be tolerated.

For purposes of this policy, harassment generally refers to conduct that has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or offensive work environment; and retaliation includes direct or indirect action or inaction that may deter a reasonable employee from complaining or participating in an investigation into discrimination, harassment or other potential policy violation.

This policy covers any individual doing business or having contact with the Town along with all full-time, part-time, temporary, and seasonal employees and elected officials, volunteers, interns, and applicants. This policy also applies to all work settings and activities, whether inside or outside the workplace, and includes business trips and Town sponsored events. Town property (such as telephones, cell phones, copy machines, facsimile machines, computers, printers, tablets, e-mail and Internet access) may not be used to engage in conduct that violates this policy. This policy also applies to off duty conduct by employees, including the use of social media, if there is a nexus to the workplace.

To achieve the Town's goal of a community free from discrimination, harassment, retaliation and intimidation, the Town has provided a procedure to respond to conduct prohibited by this policy. The Town takes complaints and allegations seriously, and will respond promptly to complaints of discrimination, harassment, retaliation, and intimidation. Where the Town determines that inappropriate conduct has occurred, it will act promptly to eliminate the conduct and, to the extent applicable, impose such corrective action on any employee as is necessary, including disciplinary action where appropriate.

While this policy sets forth the Town's goals of promoting an environment that is free of discrimination, harassment, retaliation, and intimidation, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for conduct which the Town deems unacceptable, regardless of whether that conduct satisfies the legal definition of discrimination, sexual or other harassment, retaliation, or intimidation.

Sexual Harassment

The Town's policy against sexual harassment warrants separate discussion. It is the goal of the Town of Burlington to promote an environment that is free of sexual harassment. In Massachusetts, the legal definition for sexual harassment means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- Submission to or rejection of advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or
- 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.

Under this definition, 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. Further:

- A man as well as a woman may be the target of sexual harassment, and a woman as well as a man may be the harasser.

- The harasser does not have to be the target's supervisor. He or she may be an agent of the supervisor, a supervisory employee who does not supervise the victim, a non-supervisory employee (coworker), or, in some circumstances, even a non-employee.
- The target does not have to be the opposite sex from the harasser.
- The target does not have to be the person at whom the unwelcome sexual conduct is directed. He or she may also be someone who is affected by such conduct when it is directed toward another person.

For example, under objectively reasonable circumstances, the sexual harassment of one employee may create an intimidating, hostile, or offensive working environment for a coworker, or interfere with the coworker's work performance.

- Sexual harassment does not depend on the target 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 a promotion by the target may under objectively reasonable circumstances, constitute sexual harassment where they interfere with the target's work or create a harmful or offensive work environment.

The 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 workplace environment that is hostile, offensive, intimidating, or humiliating to male or female workers also may 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 or not they involve physical touching;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life, comment on an individual's body, or comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, or cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, or suggestive or insulting comments;
- Inquiries into one's sexual experiences; and

- Discussion of one's sexual activities.

All employees should take special note that, as stated above, the Town will not tolerate retaliation against an individual who has complained about sexual harassment, or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint.

Complaint and Compliance Review/Grievance Procedure

This Complaint and Compliance Review/Grievance Procedure is established so that any member of the public who believes he or she has been subjected to discrimination in the receipt of benefits, services, programs, and activities from the Town on the basis of race, color, religion, ancestry, ethnic group identification, national origin, creed, disability, medical condition, genetic information, marital status, age, veteran status, or sex (including actual or perceived sexual orientation or gender identity) and wishes to file a complaint may do so following the outline below.

In addition, the Town's Civil Rights Coordinator may, on his or her own initiative, undertake compliance reviews to investigate compliance of Town departments with Title VI, the ADA, Section 504, and other federal and state civil rights laws in the absence of a complaint on a periodic basis.

The Town is prohibited from retaliating against any member of the public who files a complaint under these procedures and any retaliation will be handled promptly if it occurs.

- **Complaints of Discrimination, Harassment, or Retaliation**

If any individual believes that he or she has been subjected to discrimination, sexual or other harassment, retaliation, or intimidation, the individual has the right to file a complaint with the Town.

A complaint should be made in writing and should include information about the complainant and the alleged discrimination, such as:

1. The name, address, and phone number of complainant;
2. The name of the Town department and/or employee(s) against whom the complaint is filed;
3. The location, date, and description of the alleged violation; and
4. The signature of the complainant or his or her designee.

If the complainant needs assistance with filing a complaint per this procedure, he or she may call the Town's Civil Rights Coordinator.

The complaint shall be submitted by the complainant or his or her designee as soon as possible, but no later than 180 calendar days after the alleged violation to:

Joanne M. Faust, Civil Rights Coordinator and
Human Resources Director
Town of Burlington
29 Center Street, Burlington, MA 01803
TEL: (781) 505-1160
EMAIL: jfaust@burlington.org

If a complaint is submitted directly to a Town Department, office, or staff member, the Town Department, office, or staff member shall forward the complaint to the Civil Rights Coordinator within 5 calendar days.

The Civil Rights Coordinator is available to discuss any concerns an individual may have and to provide information about the Town's policy against discrimination, harassment, retaliation, or intimidation, and the complaint process.

- **Investigations**

When the Town receives a complaint of discrimination (including, without limitation, discrimination based on pregnancy or pregnancy-related conditions), an appropriate, prompt, and impartial investigation of any allegations filed under state or federal non-discrimination statutes will be conducted. A preponderance of the evidence standard will be applied during the analysis of the complaint.

Absent extenuating circumstances, within 10 calendar days after receipt of the complaint:

1. The Civil Rights Coordinator will make a determination of whether the Town has jurisdiction over the complaint and send the complainant an acknowledgment letter informing him or her whether the complaint will be investigated. This letter will also inform the complainant of his or her right to file a complaint directly with the federal agency.
2. If the Civil Rights Coordinator finds jurisdiction exists, he or she will notify the Department that is the subject of the complaint and request a response to the complaint and will begin an investigation. The investigation may include interviews of the complainant, Town employees, contractors, subcontractors, subgrantees, and witnesses to the alleged discrimination, as well as review of any physical or written evidence. Any investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

The Civil Rights Coordinator may attempt to conciliate and resolve the complaint through a mutually agreeable solution. Any such informal resolution must be signed by both the Town

Department that is the subject of the complaint and the complainant. Absent extenuating circumstances, the Civil Rights Coordinator will complete his or her investigation and resolution efforts within 30 days after beginning the investigation.

When the Civil Rights Coordinator determines that discrimination has occurred, and an informal resolution is not reached, the Civil Rights Coordinator shall determine any necessary remedial actions and order the complained-of Town Department to implement the accepted recommendations.

Absent extenuating circumstances, the Civil Rights Coordinator will provide a written response to the complaint within 45 calendar days after beginning the investigation. The Coordinator will issue one of three letters:

1. a closure letter summarizing the allegations and stating that there was not a violation and that the case will be closed; or
2. a letter of resolution summarizing the allegations and describing the informal resolution mutually agreed to by the complainant and the Department about which the complaint was submitted; or
3. a letter of finding summarizing the allegations and the investigation of the alleged complaint and explaining any remedial action to be taken by the Town.

If the response does not satisfactorily resolve the issue, the complainant or the Town Department may appeal the decision to the Select Board for the Town within 15 calendar days after receipt of the response from the Civil Rights Coordinator.

Absent extenuating circumstances, within 15 calendar days after receipt of the appeal, the Select Board or its designee will meet with the complainant and the affected Town Department to discuss the complaint and possible resolutions. The Select Board or its designee may also interview witnesses and review any physical or written evidence.

Absent extenuating circumstances, within 15 calendar days after the meeting with the complainant and Town Department, the Select Board or its designee will respond in writing to the complainant, with a final resolution of the complaint.

If at any time a delay is expected, the Civil Rights Coordinator will notify the complainant in writing of the reasons(s) for the delay and the expected date for a response.

The Civil Rights Coordinator shall maintain records of complaints received, informal resolutions, investigation findings, appeals, and appeal decisions. The Civil Rights Coordinator shall document actions taken to resolve each complaint, communicate complaint activity to the appropriate federal agency as required, and maintain copies of complaints and documentation of their resolution for a period of not less than two (2) years.

The Civil Rights Coordinator shall furnish a report to the Select Board of the Town at least annually regarding the number, nature, and status of complaints.

- **Disciplinary Action**

If the Town determines that inappropriate conduct has been committed by one of its employees, the Town will take action as it deems appropriate under the circumstances. This may range from counseling to termination from employment, and may include such other forms of disciplinary or corrective action.

- **State and Federal Remedies**

The Town strongly encourages individuals to bring any concerns about possible discrimination, harassment, retaliation, or intimidation to its attention, so that it can promptly look into the matter and take corrective action through internal processes.

In addition, if an individual believes he or she has been subjected to discrimination, harassment, retaliation, or intimidation that violates this policy and/or state or federal nondiscrimination laws, one or both of the government agencies listed below may have jurisdiction over the matter. Using the complaint process outlined in this policy does not prohibit an individual from filing a complaint with these agencies. The deadline for filing a claim generally is 180 or 300 days from the alleged active discrimination, depending on the applicable law.

Contact information for those agencies may be found below:

The United States Equal Employment Opportunity Commission ("EEOC")

John F. Kennedy Federal Building -
Government Center Room 475- Boston, MA
02203-0506 1-800-669-4000 or 1-800-669-
6820 (TTY)
www.eeoc.gov/field/boston/index.cfm

The Massachusetts Commission Against Discrimination ("MCAD")

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

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

These procedures do not deny the right of the complainant to file a complaint with state or federal agencies, or to pursue litigation for complaints alleging discrimination, intimidation, or retaliation of any kind that is prohibited by law.