



# TOWN OF ERVING

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ADM-101

## Policy

# Sexual Harassment Prevention Policy

Approved: \_\_\_\_\_

Select Board Chair, Jacob A. Smith

Date: July 19, 2022

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### **.01 Issue Date / Effective Date**

This policy is issued and effective on July 18, 2022.

### **.02 Purpose**

The Town of Erving (the “Town”) is committed to promoting a workplace free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings is illegal and will not be tolerated by the Town. Further, any retaliation against an individual who has complained of sexual harassment and/or cooperated in an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated.

To achieve the Town’s goal of providing a workplace free from sexual harassment, this *Sexual Harassment Prevention Policy* outlines the Town’s procedure by which complaints of harassment may be made. The Town will respond promptly to complaints of sexual harassment, and where it is determined that inappropriate conduct has occurred, it will address such conduct and impose such corrective action as is necessary.

### **.03 The Rule**

Sexual harassment of employees occurring in the workplace or in other settings is not tolerated by the Town. The term “sexual harassment” means unwelcome sexual advances, requests for sexual favors, or other uninvited verbal, visual, or physical conduct of a sexual nature when:

- submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of employment or used as a basis for employment decisions; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, humiliating, or sexually offensive work environment.

Further, retaliation against an individual who has complained about sexual harassment and/or cooperated with an investigation of a sexual harassment complaint will not be tolerated.

It is also against the policy of the Town for an individual to engage in any other form of unlawful harassment and/or inappropriate or unprofessional conduct in the workplace.

#### **.04 Examples of Conduct That May Constitute Sexual Harassment**

While it is not possible to list all of the 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:

- sexual advances or propositions;
- verbal abuse, jokes, or language of a sexual nature;
- use of sexually degrading words;
- conversation or gossip with sexual overtones;
- sexually-oriented teasing;
- comments of a sexual nature about an individual's appearance or sexual terms used to describe an individual;
- inquiries into one's sexual experiences or discussion of one's sexual activities;
- comments, jokes or threats directed at a person because of their sexual preference;
- unwelcome invitations (for lunch, dinner, drinks, dates, sexual relations);
- demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment status or promises of preferential treatment;
- sexually-oriented letters, notes, or communications;
- sending, posting, or distributing offensive or discriminatory messages or materials that contain overt sexual language, sexual implications or innuendo, or comments that offensively address someone's sexual orientation;
- physical contact such as touching, hugging, kissing, stroking, fondling, patting, pinching, repeated brushing up against one's body, deliberate bumping, cornering, grabbing, or impeding or blocking movements;
- assaults of a sexual nature, molestations, or coerced sexual acts;
- sending, posting, or distributing sexually suggestive objects, pictures, cartoons or other materials;
- sexually suggestive gestures, leering or staring at parts of a person's body; and
- condoning sexual harassment.

Sexual harassment can occur in a variety of circumstances. Here are some things to remember:

- any individual may be the victim of sexual harassment, and any individual may be the harasser;
- the harasser does not have to be the victim's supervisor;
- the victim does not have to be of the opposite sex from the harasser; and
- the victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working

environment for the victim or unreasonably interferes with the victim's work performance by creating a hostile, humiliating, or sexually offensive work environment.

#### **.05 Individual Responsibilities**

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Each individual of the Town is personally responsible for:

- ensuring that their conduct does not sexually harass any other individual with whom they come in contact on the job, such as a subordinate, co-worker, client, visitor, applicant, or vendor;
- cooperating in any investigation of alleged sexual harassment by providing any information he/she possesses concerning the matter being investigated;
- actively participating in efforts to prevent and eliminate sexual harassment and to maintain a work environment free from such harassment; and
- ensuring that an individual who files a good-faith sexual harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

#### **.06 Complaints of Sexual Harassment**

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The Town has designated a Sexual Harassment Grievance Officer. The Sexual Harassment Grievance Officer is Town Administrator Bryan Smith, who can be reached by phone at (413) 422-2800, extension 1102 or by email at [bryan.smith@erving-ma.gov](mailto:bryan.smith@erving-ma.gov). If an employee prefers, they may contact Jennifer Eichorn, Treasurer, who has been designated as the Alternate Sexual Harassment Grievance Officer, who may be contacted by phone at (413) 422-2800, extension 1112 or by email at [Jennifer.eichorn@erving-ma.gov](mailto:Jennifer.eichorn@erving-ma.gov).

If any individual believes they have been subjected to sexual harassment, the individual should initiate a complaint by contacting the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer as soon as possible following any incident of alleged harassment. The individual should be aware that the longer the period of time between the event giving rise to the complaint and the complaint being made, the more difficult it will be for the Town to investigate what occurred. The individual will be asked to write out their complaint to document the allegation.

If an individual prefers to discuss a possible sexual harassment incident with their supervisor, the individual may always do so, but individuals do not have to go through the regular chain of supervision when reporting sexual harassment and may, instead, go directly to the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer.

#### **.07 Investigation of Sexual Harassment Complaints**

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Upon receiving the complaint, the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer will promptly undertake an investigation of the matter. The investigation may include interviews with the individual making the complaint, witnesses, and the person accused of sexual harassment. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

When the investigation has been completed, the Town will, to the extent appropriate, inform the individual who filed the complaint and the individual alleged to have committed the complained-of conduct, of the results of the investigation. If the investigation reveals that sexual harassment did occur, the Town will act promptly to eliminate the offensive conduct.

## **.08 Retaliation**

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Retaliation against an individual for making a good-faith complaint of sexual harassment or cooperating in an investigation is against the law and prohibited. If any individual believes that they have been subjected to retaliation for having brought a complaint of harassment or for having participated in an investigation, that individual is encouraged to report the situation as soon as possible to the Sexual Harassment Grievance Officer, the Alternate Sexual Harassment Grievance Officer, or their supervisor.

## **.09 Violation of Policy**

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Any individual violating this *Sexual Harassment Prevention Policy* will be subject to appropriate discipline, including possible termination of employment.

## **.10 State and Federal Agencies**

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In Massachusetts, the Massachusetts Commission Against Discrimination (“MCAD”) is the state agency responsible for enforcing Massachusetts state law prohibiting sexual harassment. The MCAD can be reached at One Ashburton Place, Room 601, Boston, MA 02108, (617) 994-6000, or 436 Dwight Street, Suite 220, Springfield, MA 01103, (413) 739-2145, or 484 Main Street, Room 320, Worcester, MA 01608, (508) 453-9630, or 128 Union Street, Suite 206, New Bedford, MA 02740, (774) 510-5801. The U.S. Equal Employment Opportunity Commission (“EEOC”) is responsible for enforcing the federal law prohibiting sexual harassment. The EEOC can be reached at John F. Kennedy Federal Building, Government Center, Room 475, Boston, MA 02203, (617) 565-3200.

A complaint to the MCAD must be filed within 300 days of the alleged conduct. A complaint under the federal law should be filed within 180 days, but under certain circumstances, a federal complaint may be filed within 300 days.

## **.11 Workplace Conduct**

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It is important to note that while this *Sexual Harassment Prevention Policy* sets forth the Town’s goal of promoting a workplace that is free of sexual harassment, it does not, in any way, limit the Town’s authority to discipline or take remedial action for workplace conduct which it deems unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

**Acknowledgment of Receipt of the Sexual Harassment Prevention Policy**

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I acknowledge receipt of this *Sexual Harassment Prevention Policy* from the Town and I have read its contents.

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Employee's Name (Please Print)

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Employee's Signature

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Date

***This signed Acknowledgement is to be returned to the Town Administrator's Office within five (5) business days after receipt of this Policy.***