



# TOWN OF ERVING

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ADM-102

## Policy

# Protected Class Harassment Prevention Policy<sup>1</sup>

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

*Jacob A. Smith*

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”) depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to maintaining a positive and congenial work environment free from harassment. The Town recognizes the right of all individuals to be treated with respect and dignity.

Employees are encouraged to see their immediate supervisor with suggestions, questions or problems relating to their job or work environment, or the employee can contact Human Resources. While the Town cannot promise that every problem will be resolved to an employee’s satisfaction, the Town values employee input, and employees should feel free to raise issues of concern.

### **.03 Equal Employment Opportunity**

The Town is an equal employment opportunity employer and does not discriminate in hiring or employment on the basis of race, color, religious creed, national origin, sex, ancestry, sexual orientation,

<sup>1</sup> Sexual harassment is covered by a separate policy, which has been issued to all employees.

as defined by law, age, as defined by law, qualified mental or physical disability, genetic information, military status, veteran status, or application for military service, gender identification, transgender status, pregnancy, or any other protected class legally applicable to the Town (collectively, “Protected Classes”). If an employee believes they require an accommodation in order to perform the essential functions of their job due to disability, please notify Human Resources.

#### **.04 Harassment**

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Harassment on the basis of a Protected Class (hereafter referred to as “harassment”), is a form of behavior that adversely affects the employment relationship. State and Federal law prohibit such behavior. The Town condemns and prohibits the unlawful harassment of any applicant, employee, client, vendor or visitor.

Because the Town takes allegations of harassment seriously, we will respond promptly to complaints of harassment and, where it is determined that inappropriate conduct has occurred, we will act promptly to address the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

#### **.05 The Rule**

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It is against the policy of the Town for any individual to harass another individual on the basis of a Protected Class when:

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

It is also against the policy of the Town for an individual to engage in any inappropriate or unprofessional conduct in the workplace.

#### **.06 Examples of Conduct That May Constitute Harassment**

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While it is not possible to list all of the circumstances that may constitute unlawful harassment, depending upon the totality of the circumstances, including the severity of the conduct and its pervasiveness, the following is a list of situations that could constitute unlawful harassment:

- verbal abuse, comments, jokes, teasing, threats or the use of words that degrade a person because of their Protected Class;
- obscene or suggestive gestures or sounds intended to relate to a person’s Protected Class;
- posting or distributing letters, notes, objects, pictures, cartoons or other materials that degrade a person because of their Protected Class;
- sending or posting offensive or discriminatory messages or materials related to an individual’s Protected Class through the use of electronic communications (e.g., internal and external electronic mail, voicemail, facsimile, and Internet sites, including social media sites); and
- condoning harassment on the basis of a person’s Protected Class.

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

- The harasser does not have to be the victim’s supervisor; and
- The victim does not have to be the person at whom the unwelcome harassment 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 offensive work environment.

## **.07 Individual Responsibilities**

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Each individual of the Town is personally responsible for:

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

## **.08 Violation of Policy**

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Any individual violating this policy will be subject to appropriate discipline, including possible termination of employment.

## **.09 Procedures for Complaints**

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The Town has designated a Harassment Grievance Officer. The Harassment Grievance Officer is Bryan Smith, Town Administrator, who can be reached by phone at (413) 422-2800 ext. 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 Harassment Grievance Officer, who may be contacted by phone at (413) 422-2800 ext. 1112 or by email at [Jennifer.eichorn@erving-ma.gov](mailto:Jennifer.eichorn@erving-ma.gov).

If any individual believes they have been subject to harassment on the basis of their Protected Class, the individual should initiate a complaint by contacting the Harassment Grievance Officer or the Alternate Harassment Grievance Officer as soon as possible. The individual should make the complaint promptly 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 Harassment Grievance Officer or their designee to investigate what occurred. The individual will be asked to write out their complaint to document the allegation.

If an employee prefers to discuss a possible harassment problem with their supervisor, or Human Resources, the employee may always do so, but employees do not have to go through the regular chain of supervision when reporting harassment and may, instead, go directly to the Harassment Grievance Officer or the Alternate Harassment Grievance Officer.

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

When the investigation is completed, the Town will, to the extent appropriate, inform the person who filed the complaint, as well as the person alleged to have committed the complained of conduct, of the results of the investigation. If the investigation reveals that unlawful harassment did occur, the Town will act promptly to eliminate the offensive conduct.

## **.10 Retaliation**

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Retaliation against an individual for making a good-faith complaint of harassment, or against any individual for cooperating in an investigation of a harassment complaint, is against the law. The Town will not tolerate any such retaliatory conduct. If any employee believes that they have been subjected to

retaliation for having brought a complaint of harassment, or for having participated in an investigation of a complaint of harassment, that employee is encouraged to report the situation as soon as possible to the Harassment Grievance Officer or the Alternate Harassment Grievance Officer, or to the employee's supervisor, or Human Resources.

#### **.11 State and Federal Agencies**

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The Massachusetts Commission Against Discrimination ("MCAD") is responsible for enforcing the state law prohibiting harassment on the basis of protected class. The MCAD can be reached at One Ashburton Place, Room 601, Boston or 484 Main Street, Room 320, Worcester. The U.S. Equal Employment Opportunity Commission ("EEOC") is responsible for enforcing the federal law prohibiting harassment on the basis of protected class. 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.

#### **.12 Workplace Conduct**

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It is important to note that while this policy sets forth the Town's goal of promoting a workplace that is free of harassment, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for workplace conduct that it deems unacceptable, regardless of whether that conduct satisfies the definition of unlawful harassment.

**Acknowledgment of Receipt of the Protected Class Harassment Prevention Policy**

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I acknowledge receipt of this *Protected Class 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***