

TRURO FIRE RESCUE RULES & REGULATIONS

R&R #11 SEXUAL HARASSMENT POLICY EFFECTIVE 12-15-99 TOWN OF TRURO POLICY #19

11.0 SEXUAL HARASSMENT POLICY

1. Introduction:

It is the goal of the Town of Truro to promote a workplace that is professional, treats all of those who work here with dignity and respect, and is free of sexual harassment. Sexual 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 by the Town of Truro. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will also not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

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

Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

2. Legislative Requirement:

Chapter 278 of the Acts and Resolves of 1996 signed on August 8, 1996, adds a new section 3A to Chapter 151B of the General Laws of Massachusetts. Attachment 1 is a copy of Chapter 278.

3. Definition of 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.

- a. 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**
- b. Such advances, requests or conduct have the purpose or affect of unreasonably interfering with an 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 evaluations, 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 oriented conduct, whether it is intended or not, that is unwelcome and has the affect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

While it is not possible to list all those 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 sexually suggestive objects, pictures, or 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.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by the Town of Truro.

4. Complaints of Sexual Harassment:

If any of our employees believes that they have been subjected to sexual harassment, the employee has the right to file a complaint with the Town of Truro. This may be done in writing or orally. Attachment 2 contains the Complaint Procedure Guidelines and Complaint Form.

If you would like to file a complaint, you may do so in writing or orally with your supervisor, or by writing to or speaking with the Town Administrator, Mr. R. W. Breault, Jr. You may call Town Hall at 349-3635 and set up a personal appointment, or by writing to him at P. O. Box 2030, Truro, MA 02666. These individuals are also available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process.

5. Sexual Harassment Investigation:

When we receive the complaint, we will then investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. Our investigation will include a private interview with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed sexual harassment. When we have completed our investigation, we will, to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where it is appropriate we will also impose disciplinary action.

6. Disciplinary Action:

If it is determined that inappropriate conduct has been committed by one of our employees, we 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 we deem appropriate under the circumstances..

7. Sexual Harassment Complaint Procedure:

Any employee who believes they may have been subjected to sexual harassment should report the alleged incident immediately in accordance with the procedures outlined in Attachment 2 to this Policy Memorandum. All information disclosed in the procedure will be held in strictest confidence and will only be disclosed on a need-to-know basis in order to investigate and resolve the matter.

8. State and Federal Remedies:

In addition to the above, if you believe you have been subjected to sexual harassment, 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 the agencies has a short time period for filing a claim (EEOC - 180 days; MCAD - 6 months).

- a. The U. S. Equal Employment Opportunity Commission (EEOC)
1 Congress Street - Room 1001
Boston, MA 02114
617-565-3200

- b. The Massachusetts Commission Against Discrimination (MCAD)
One Ashburton Place - Room 601
Boston, MA 02108
617-727-3990

SEXUAL HARASSMENT COMPLAINT PROCEDURE GUIDELINES

Any employee who believes they may have been subjected to sexual harassment should report the alleged incident immediately in accordance with these procedures. All information disclosed in the procedure will be held in strictest confidence and will only be disclosed on a need-to-know basis in order to investigate and resolve the matter.

STEP 1

The individual alleging sexual harassment should report the incident immediately to their Department Head or Supervisor, or to the Town Administrator, or use the Private Counseling Option noted in the Policy Statement. Any individual made aware of such accusations must immediately direct the matter to the Town Administrator who will notify the Board of Selectmen of the allegations as necessary. A confidential investigation will be undertaken immediately under the direction of the Town Administrator. The matter will be discussed separately with the accuser and the alleged offender, informally, in an attempt to mediate and/or resolve the matter. If warranted, immediate action will be taken to separate the affected individuals from further contact in the working environment to the extent possible.

STEP 2

If the matter cannot be resolved informally, the individual alleging sexual harassment will be informed that in order to pursue the complaint further, they should complete the attached complaint form specifically outlining the nature of the complaint or request verbally that the complaint be further pursued. The completion of a written complaint form is preferred but is strictly optional. If the matter must be pursued further, Town Counsel will be notified.

STEP 3

Within 48 hours after receiving the request to further investigate the complaint, the alleged offender will meet with the Town Administrator, or designee and be

informed of:

- a. The charge being made,
- b. Town policy regarding sexual harassment, and
- c. The seriousness of the charge

The respondent will be provided with a copy of the complaint, if submitted, and given the opportunity to address the allegation by responding in writing on the complaint form or verbally, whichever is desired.

STEP 4

The Town Administrator, or designee, shall investigate the allegations. This investigation may include, but is not limited to:

- a. Interviews with respondent/complainant,
- b. Interviews with supervisor,
- c. Interviews with witnesses, and
- d. Review of any documentation on file.

Within two (2) weeks of the receipt of a complaint, or as soon as reasonably possible, the investigator will report the findings and recommendations to the Town Administrator, who, in turn, will inform the Board of Selectmen. The Town Administrator will determine the action to be taken based upon the facts on a case-by-case basis with whatever consultation may be required. If after appropriate investigation, the allegations are shown to be false, the Town Administrator will determine what, if any, action will be taken with either party. If warranted, the Town Administrator will determine the action and whether or not disciplinary action will be taken against the individual who alleged the false complaint.

STEP 5

Upon receipt of the Town Administrator's determination, either party may appeal the decision to the Personnel Board within 30 days. This appeal must outline the reasons why the individual feels the decision to be erroneous. The Personnel Board will determine the final outcome through review of the record and shall be considered final. However, any action directed by the Town Administrator shall be implemented upon his/her determination and such action will also be reviewed upon appeal. Appeal of disciplinary action taken by the Town Administrator will follow the procedures outlined in Article XVI of the Town of Truro's Personnel Bylaw.

Any retaliatory action by an employee against any other employee as a result of an individual's seeking redress under this procedure is prohibited and shall be regarded as a separate and distinct cause for complaint under this procedure, and as a basis for disciplinary action against the offending employee.

THIS IS A GUIDELINE FOR INVESTIGATING AND ADDRESSING SEXUAL HARASSMENT COMPLAINTS; THEY NEED NOT FOLLOW THE STEPS OUTLINED, AND DEVIATIONS ARE ALLOWED TO FIT THE INDIVIDUAL FACTS OF EACH CASE.

SEXUAL HARASSMENT COMPLAINT FORM

COMPLAINANT'S REPORT (OPTIONAL)

Complainant's Name: _____

Complainant's Position/Department: _____

Alleged Offender's Name: _____

Alleged Offender's Position/Department: _____

Date and Time of Alleged Incident: _____

Nature of Alleged Incident: (Include a description of what happened, any relevant details to the incident, etc.)

Name and Position of Any Witnesses to the Alleged Incident:

Is this the first time the alleged incident has been reported? (circle one) Yes No

If not, when and to whom was the incident first reported?

Signature: _____ Date: _____

Received By/Position: _____ Date: _____

SEXUAL HARASSMENT COMPLAINT FORM

ALLEGED OFFENDER'S RESPONSE (OPTIONAL)

