

## **Administrative Policy #5: GRIEVANCE PROCEDURE**

### **I. Policy**

It is the Town's policy to encourage employees to freely discuss problems with their Supervisors, Department Directors, or others in positions of authority. Supervisors and employees are encouraged to resolve differences and to seek and provide clarification of policies and procedures before initiating the grievance process.

### **II. Definitions**

1. Grievance A grievance is a request for a review of an action or decision by the Town, or its representatives, this adversely affects an employee and which he/she believes is based upon a misunderstanding or misapplication of a Town policy or procedure. A grievance may address the following issues:

- a. Employee health or safety;
- b. Physical facilities, materials, or equipment in relation to reasonable accommodations to the Americans with Disabilities Act;
- c. Employee personnel records
- d. Discrimination;
- f. Sexual harassment; and,
- g. Adverse action.

2. Discrimination. Discrimination is prejudicial conduct by an individual against another person because of gender, age, race, color, creed, religion, national origin, disability, or political affiliation. Employees who are proven to have discriminated against other employees or members of the public, in the course of their duties, shall be subject to immediate corrective action that may include discharge. If Town employees experience or have knowledge of discrimination by Town employees, they are encouraged to report such abuses to their supervisor, Department Director, or the Town Manager.

3. Harassment. Harassing conduct includes, but is not limited to: epithets, slurs, negative stereotyping, or threatening, intimidating, or hostile acts that relate to race, color, religion, gender, national origin, age, disability or political affiliation. Written or graphic material that denigrates or indicates hostility or aversion toward an individual or group is prohibited from display on the employer's premises, or circulation in the workplace.

SEXUAL HARASSMENT includes:

- A. Unwelcome verbal conduct such as comments, suggestions, jokes or derogatory remarks based upon sex;
- B. Physical conduct such as inappropriate or offensive touching;
- C. Visual harassment such as posting sexually suggestive or derogatory pictures, cartoons or drawings, even at one's work station;
- D. Unwanted sexual advances, pressure for sexual favors, and/or;
- E. Basing employment decisions (such as an employee's performance evaluations, work assignments, or advancement) upon the employee's acquiescence to sexually harassing conduct in the workplace.

HOSTILE WORK ENVIRONMENT is one that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with an employee's work performance.

4. Adverse Action Adverse action is the suspension, involuntary demotion, or discharge of an employee.

## **II. Procedure for Addressing Grievances Regarding Conditions of Employment**

Grievances regarding conditions of employment are those which do not concern sexual harassment, discrimination, or adverse action. When an employee or group of employees has a grievance concerning the conditions of employment with the Town, the following steps are to be taken. The maximum number of days for completing each step is cited and unless provided otherwise, every effort should be made to expedite this process.

1. Step One The employee should present the grievance orally to an immediate Supervisor within **five (5)** working days of the incident. The Supervisor must respond to the employee's grievance as soon as possible, but no later than **five (5)** working days after the problem is presented.

2. Step Two An employee who is dissatisfied with the solution proposed in Step One may present the grievance to his/her Department Director or the Personnel Grievance Committee, if the Department Director was the immediate Supervisor in Step 1. The employee must present a signed statement outlining the problem, reasons why the solution offered in Step One was not acceptable, and suggestions for equitably solving the problem. The signed statement must be submitted to the Department Director within **five (5)** working days after Step One is completed. Upon receiving the statement, the Department Director will hold a personal conference with the aggrieved party. The Department Director and the aggrieved party may each request the presence of other parties who are involved in, or have knowledge about the facts of the complaint. However, neither the aggrieved party nor the Department Director may be represented by attorneys at the conference. The Department Director is required to respond to the employee, in writing, within **five (5)** working days after receiving the employee's signed statement. Every reasonable effort should be made during Step Two to reach a final solution acceptable to both parties.

3. Step Three An employee who is dissatisfied with the solution proposed in Step Two may present the written grievance within **five (5)** working days after Step Two is completed to the Personnel Grievance Committee, if the Department Director heard the Grievance in Step 2, or the **Town Manager**, if the Personnel Grievance Committee heard the Grievance in Step 2. Who will then review the decision from Step 2. Personnel Grievance Committee or the Town Manager, as the case may be, will consult both parties and render a decision within **ten (10)** calendar days. Copies of the decision,

with all supporting documents, will be distributed to the employee and the Department Director. Decisions of the Town Manager are final, with no further administrative appeal existing.

4. Step Four. An employee who is dissatisfied with the solution proposed in Step Three by the Personnel Grievance Committee may appeal the grievance to the **Town Manager** within **five (5)** working days after Step Three is completed. Who will then review the decision from Step 3. The Town Manager will consult with both parties and render a final decision within **ten (10)** calendar days. Copies of the final decision, with all supporting documents, will be distributed to the employee and the Department Director. Decisions of the Town Manager are final, with no further administrative appeal existing.

#### **IV. Procedure for Addressing Grievances Alleging Discrimination, Sexual Harassment, or Adverse Action**

Employees should direct grievances alleging discrimination and sexual harassment or appeals of adverse action to the Town Manager. All grievances must be put in writing and brought to the Town Manager who will refer it to the Personnel Grievance Committee, to investigate the allegations and will convene a hearing, as described in Administrative Policy Personnel Grievance Committee. In the event the Town Manager is named in the grievance, the grievance shall be brought to the **Mayor**, or his/her designee, will then assume these responsibilities.

## **ADMINISTRATIVE POLICY #5: PERSONNEL GRIEVANCE COMMITTEE**

### 1. Duties and Functions

The Committee shall hold hearings on employee complaints regarding discrimination, sexual harassment, and adverse action, and shall meet on an as-needed basis to review personnel procedures and to offer input into their implementation.

### 2. Hearing Procedures

Committee hearings are not matters of public record and are not subject to open meeting requirements. Committee hearings are subject to the provisions of the Personnel Privacy Act. The Committee shall adopt such procedures as are necessary to assure the orderly conduct of its meetings. The Committee shall issue findings of fact and render a decision in writing for each grievance being reviewed.

A. The Chairperson of the Committee shall issue the Committee's decision in an appeal or grievance within the prescribed number of days after the appeal or grievance is delivered.

B. A decision shall be based exclusively on:

1. Competent evidence and arguments presented during the hearing and made a part of the official record -- petitioners may be represented by counsel and may present witnesses and documentary evidence to the Committee;
2. Stipulations of fact;
3. Matters officially noticed; and,
4. Any proposed findings of fact and written arguments submitted by the parties.

C. A decision shall fully dispose of all issues required to resolve the case and shall contain:

1. An appropriate caption;
2. The appearance of the parties;
3. A statement of the issues;
4. References to specific statutes or rules at issue;
5. Findings of fact;
6. Conclusions of law based on the findings of fact and applicable constitutional principles, statutes, rules, or federal regulations; and,
7. In the discretion of the Chairperson, a memorandum giving reasons for the Committee's findings of fact and conclusions of law.

### 3. Composition

The Committee shall be composed of THREE (3) Town Department Directors, which are appointed on an adhoc basis by the Town Manager, and which do not directly supervise the Employee filing the Grievance.

#### 4. Terms of Membership

Members of the Commission shall be appointed by the Manager and shall serve Term sufficient to determine and finalize a referred grievance. The Committee shall elect one (1) member to serve as chairperson for the duration of the proceeding.

#### 5. Meetings

In addition to holding hearings related to employee grievances or complaints of discrimination, the Committee *may* meet on an as-needed basis for the purpose of reviewing personnel procedures. All meetings will be held in the Town Office Building. The dates and times of any meeting will be determined by the Chairperson or the Town Manager.

Special meetings of the Committee may be called by any two (2) members of the Committee, the Chairperson, or the Town Manager by providing written or electronic notice, to each member of the Committee, the Town Manager, Department Directors, and others, at least 3 days before the scheduled meeting date. Members of the Committee and those persons involved in Grievance, if any, shall receive a written notice of each Committee meeting and a proposed meeting agenda. The **Town Clerk** shall be responsible for disseminating all meeting notices and proposed agendas.

#### 6. Conduct of Meetings

The Committee shall adopt procedures to assure the orderly conduct of its meetings. Meetings may be informal, subject to such rules of order as may be promulgated by the Chairperson.


#### 7. Quorum

Two (2) members of the Committee shall constitute a quorum for the official transaction of business. Routine meetings may be held with less than a quorum present, for informational purposes only, but no official action can be taken. A quorum must always be present for the conduct of hearings of employee appeals and grievances and for taking other official action.

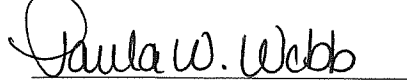
#### 8. Record of Proceedings

The Committee shall keep an accurate record of all its proceedings, findings, and recommendations.

*Adopted the 21<sup>st</sup> day of February 2006.*

  
David L. Russell, Mayor

Attest:

  
Paula W. Webb, Town Clerk

