

TOWN OF OXFORD

# Personnel Manual

In Accordance with  
Section 6-6-2 of Town of Oxford Charter

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## **DISCLAIMER**

THE TOWN RESERVES THE RIGHT TO ADD TO OR DELETE PROVISIONS OF THESE POLICIES AND TO UNILATERALLY CHANGE THE CONTENTS OF THE POLICIES AT ANY TIME WITHOUT NOTICE. THESE POLICIES DO NOT CREATE A CONTRACT OF EMPLOYMENT. UNLESS OTHERWISE PROVIDED BY LAW, YOUR EMPLOYMENT WITH THE TOWN IS ON AN AT-WILL BASIS. ACCORDINGLY, YOU OR THE TOWN MAY TERMINATE YOUR EMPLOYMENT AT ANY TIME FOR ANY OR NO REASON WITHOUT NOTICE.

## **DEFINITIONS**

<b><u>ACCRUED VACATION:</u></b>	Accrued vacation is vacation leave earned in the current fiscal year but not available until July 1 <sup>st</sup> of the following fiscal year.
<b><u>ACCUMULATED VACATION:</u></b>	Accumulated vacation leave is vacation time earned prior to July 1 <sup>st</sup> of the current fiscal year.
<b><u>BENEFITS:</u></b>	Any item of value other than wages including, but not limited to, leave and insurance.
<b><u>CLASSIFICATION:</u></b>	The arrangement of jobs into grade levels based in part upon the similarities of duties and responsibilities, qualification requirements, physical exertion and environmental conditions.
<b><u>COMPENSATION:</u></b>	The salary, wages and all other forms of valuable consideration paid to any employee of the Town, but not including allowances for expenses incurred incidental to employment.
<b><u>DISCIPLINARY ACTION:</u></b>	Action taken to address behavior that does not conform to workplace conduct. Disciplinary action includes, but is not limited to, verbal reprimands, written reprimands, suspensions and termination.
<b><u>DIVISION OR DEPARTMENT HEAD:</u></b>	The officer, board or other body having immediate supervision and control of a division or department.
<b><u>EMPLOYEE, REGULAR FULL-TIME:</u></b>	Any person regularly scheduled to work thirty-five (35) or more hours per week.
<b><u>EMPLOYEE, REGULAR PART-TIME:</u></b>	Any person regularly scheduled to work less than thirty-five (35) hours per week. Part-time employees regularly scheduled to work twenty (20) or more hours per week shall be entitled to benefits on a prorated basis, except for insurance where they will receive benefits as a full-time employee.
<b><u>EMPLOYEE, TEMPORARY:</u></b>	Any person who works on an irregular basis, or for a specific project, or season determined by the workload and/or climatic conditions. Temporary employees are not entitled to benefits.
<b><u>EMPLOYEE, EXEMPT:</u></b>	An employee who is not subject to the overtime provisions of the Federal Fair Labor Standards Act.
<b><u>EMPLOYEE, NON-EXEMPT:</u></b>	An employee who is subject to the overtime provisions of the Federal Fair Labor Standards Act.

<b><u>FULL PAY STATUS:</u></b>	An employee who carries out a normal work assignment or is out on authorized paid leave as defined in these Guidelines shall be considered to be in full pay status.
<b><u>LEAVE OF ABSENCE:</u></b>	Authorized absence from assigned duties for a specified period.
<b><u>OVERTIME:</u></b>	Hours of work performed by an hourly employee in excess of 40 hours per week. Includes Sick, Vacation, Personal, and Holiday hours.
<b><u>PAY PLAN:</u></b>	An orderly arrangement of compensation based upon classification grades and which establishes pay steps within those grades.
<b><u>PAY STEP:</u></b>	A particular rate of compensation within a series of rate increments established for a classification. From the minimum to the maximum pay rate of a classification there may be several pay steps.
<b><u>PERFORMANCE EVALUATION:</u></b>	The total process of observing and reviewing work performance identifying needs for improvement, working with employees to improve their effectiveness and making full use of their skills.
<b><u>PROMOTION:</u></b>	The change of an employee to a classification in a higher level from a classification in a lower level.
<b><u>RETIREE:</u></b>	Employee who has left the employment of the Town and is receiving benefits pursuant to Massachusetts General Laws, Chapter 32.
<b><u>STEP INCREASE:</u></b>	The pay increase between pay step rates within each job level
<b><u>WORKDAY: *</u></b>	For purposes of calculation, a "workday" has been established as the weekly number of hours, divided by five (5); employees engaged in emergency services will use the combination of specified hours in a determined work period. This calculation shall be used for holiday pay as well as personal leave.
<b><u>WORKWEEK:</u></b>	For purposes of these Guidelines, a workweek shall be considered to consist of five working days, unless otherwise designated in the job description.

**TOWN OF OXFORD - PERSONNEL MANUAL**  
**IN ACCORDANCE WITH SECTION 6-6-2 OF TOWN OF OXFORD CHARTER**

The Town is committed to providing equal employment opportunities. The Town will not discriminate against employees or applicants for employment on any legally-protected class status, including, but not limited to race, color, religion, sex, sexual orientation as defined by law, national origin, member of uniformed military services, physical or mental disability, age as defined by law, or genetic information.

1. **PURPOSE:** In the interest of good employee relations and efficiency, it is necessary to have written guidelines concerning working conditions. These guidelines are set forth to be used to establish a productive working relationship for the employees involved. The Town Manager may make exceptions to the guidelines set forth herein when in the best interest of the Town to do so.
2. **AUTHORITY:** Pursuant to the authority contained in Chapter 6 of the Town of Oxford Charter, as amended, these guidelines for the Town of Oxford employees have been prepared and can be amended from time to time in accordance with the above Chapter 6.
3. **EMPLOYEES COVERED:** As used in these guidelines, the term "employee" shall include regular full time, regular part time and temporary persons employed by the Town of Oxford, including other funded positions. Excluded from these guidelines are:
  - 1) Town Manager, Chief of Police, and any other employee who has an employment agreement with the Town.
  - 2) All employees under the control of and contracted to the School Department.
  - 3) Any employee covered under a collective bargaining agreement.

In the event that any of the terms set forth in this manual shall be construed to conflict with the Town Charter or By-Laws, the Charter and By-Laws shall take precedent.

4. **CLASSIFICATIONS:** The Personnel Board shall produce and amend position classifications for all positions based on the duties, responsibilities and authority of each position; and may recommend to the Town Manager the reclassification of a position whenever warranted by changed circumstances.
5. **LEAVE:** Regular part-time employees who work an average of twenty or more hours per week will be eligible for leave benefits. Regular full-time and part-time employees are eligible to receive leave benefits according to the following provisions:

**5.1 Vacations**

Vacation accrual for any given year shall be based upon the whole number of years of continuous service to be completed during that fiscal year. Employees with less than one year of service as of June 30th of the preceding fiscal year shall earn a prorated portion of the vacation benefits based on the number of months of service completed as June 30th of that fiscal year. Vacation schedules, subject to approval by an employee's immediate supervisor, shall be granted according to the following limits:

- 2 workweeks after completion of one fiscal year of service
- 3 workweeks after completion of five fiscal years of service.
- 4 workweeks after completion of ten fiscal years of service.
- 5 workweeks after completion of twenty-five fiscal years of service.

A maximum of one week of vacation may be carried over to a succeeding year when requested by an employee prior to June 30th and when approved by the Town Manager.

- 5.1.1** Accrued and accumulated, but unused vacation leave will be paid to an employee who is separated from his employment. In the event of the death of an employee, accrued and accumulated, but unused vacation leave will be paid to the deceased employee's estate.

- 5.1.2 Employee must have six (6) months of continuous service in full pay status before vacation benefits can be used. Vacation leave may be taken in fifteen-minute increments.

## 5.2 Sick Leave

- 5.2.1 Sick leave should be regarded by all employees as a valuable fringe benefit to assist an employee when unable to work. Sick Leave shall only be granted for a bona-fide illness, subject to Section 5.2.2.
- 5.2.2 Employees shall receive seven and one-half (7 ½) workdays\* of sick leave on January 1st and seven and one-half (7 ½) workdays\* of sick leave on July 1st for a total of 15 workdays\* a year. Regular employees will be eligible for sick leave benefits after completing 30 days. Unused sick leave credit shall accumulate to a maximum of 120 working days. Sick leave may be used in fifteen-minute increments. Employees may use sick leave with pay if absence is necessitated by injury or illness. In the event an employee's spouse, child or any other member of the immediate family living at the employee's residence is injured or ill in such a manner as to require the employee's presence, such employee may use up to two days of accumulated sick leave credit per incident. Up to three (3) days of the employee's accumulated sick leave per calendar year may be used for the care of a parent or child not residing in the employee's home.
- 5.2.3 An employee who is sick shall inform the department supervisor at, or prior to, the start of the workday. The supervisor will notify the Town Manager's office of the absence.
- 5.2.4 After any absence for illness, the Town may require a doctor's certificate indicating the degree of illness and the ability to return to work. In the event of a prolonged illness (absence of three (3) consecutive workdays or more), an employee will be required to submit an attending physician's statement as requested by the Town Manager. Subsequent medical reports and/or an independent medical examination may be requested by the Town Manager on a periodic basis. Failure to comply with these requests on a timely basis will result in the suspension of sick leave benefits.
- 5.2.5 Accumulated sick leave at termination of employment, for reasons other than reduction in force, will be forfeited as of the date of separation. Accumulated sick leave at time of separation because of reduction in force will be carried for a period of one year and become available at date of rehiring provided the employee is rehired within one year.

## 5.3 Disability

- 5.3.1 If any employee is totally disabled for work for a period beyond the amount of accumulated sick leave and/or vacation leave, accrual of vacation leave, sick leave, personal leave, bereavement leave and holidays shall cease until the employee returns in full pay status.
- 5.3.2 If an employee is totally disabled for work for a period of three consecutive months, the case shall be reviewed by the Town Manager, with a written recommendation by the department head, for the purpose of determining whether it appears as though the employee will be able to return to their full pay status.
- 5.3.3 The Town is committed to providing equal employment opportunities to otherwise qualified individuals with disabilities, which includes providing reasonable accommodations. In general, it is your responsibility to notify your Department Head or the Town Manager of the need for an accommodation. Your Department Head or the Town Manager may ask you for input on the type of accommodation you believe may be necessary, or the functional limitations caused by your disability. Also, when appropriate, the Town may require additional information from your physician or other medical provider. Matters relating to reasonable accommodations are not subject to the Grievance Procedure set forth below in Section 7.

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\* See Definitions: Workday

**5.4 Personal Leave:** Employees with thirty (30) days to six (6) months of service in a fiscal year are entitled to one (1) Personal day, to be taken in that fiscal year. Employees with over (6) months of service in a fiscal year are entitled to a total of three (3) personal days to be taken in that fiscal year. Personal days must be used prior to the beginning of the next fiscal year and cannot be carried over from year to year. Personal days may be taken in fifteen (15) minute increments. Personal days may be used for personal reasons when requested twenty-four hours in advance and approved by the employee's supervisor. A supervisor may waive the twenty-four hour requirement.

**5.5 Bereavement Leave:** The purpose of Bereavement Leave is to mourn or to attend a funeral. Employees are paid for absence from their regularly scheduled work in the event of a death in their immediate family or of a near relative. The supervisor must notify the Town Manager when a death occurs in an employee's family.

Employees will be allowed up to five (5) consecutive days paid leave of absence from regularly scheduled work to attend funeral activities or memorial week when there is a death in their immediate family. In extenuating circumstances, the employee may be granted additional bereavement time, using their accumulated sick/personal leave, at the discretion of the Department Head and Town Manager. Immediate family is defined as parents or step parents, mother-in-law or father-in-law, husband or wife, brother or sister, brother-in-law, sister-in-law, children, son-in-law, daughter-in-law, step-children, loco parentis, grandparents, grandchildren, or any relative residing in the employee's household.

For other relatives, a maximum one (1) day of paid leave of absence will be granted.

Employees are allowed up to a half day (1/2) of time off with pay to attend the funeral of a close friend. Special or unusual situations (such as the need for extra time for travel) will be considered on an individual basis by the Town Manager.

#### **5.6 Jury Duty or Court Appearance**

**5.6.1 Jury Duty:** An employee who is called to jury duty shall be paid his or her regular wages by the Town for the first three days, or part thereof, of Massachusetts jury service, if such jury service occurs during his or her regularly scheduled workday. If an employee serves on a jury for more than three days they may use any available Vacation or personal time to supplement their Jury Duty pay in order to receive a full weeks pay. The request must be made in writing and must specify the number and type of hours for each week that the employee serves.

The employee must present to the Town Manager's office the original or a photocopy of the summons requiring the employee to appear for jury service.

Each week the Office of the Jury Commissioner will mail jury service certificates to those jurors who have performed juror service during the previous week. Upon receipt of such certificate, the employee must give the Town's copy to the Town Manager's office, as soon as possible.

If an employee is relieved of jury duty responsibility before the end of a workday, he or she should return to work.

**5.6.2 Court Appearance:** An employee who is subpoenaed as a witness in a case pertaining to Town business is performing a duty of their employment and will be paid his or her regular salary and the payment received for serving as a witness. No employee will be compensated for "court appearance" when appearing as a witness other than for Town business.

**5.7 Military Leave:** The Town will provide eligible employees with military leave in accordance with law. Specifically, the Town will provide leave in accordance with the Uniform Services Employment and Reemployment Rights Act (USERRA) and Massachusetts General Laws, Chapter 149, Section 52A. Additionally, the Town has accepted Massachusetts General Laws, Chapter 137 of the Acts of 2003, subject to the slated expiration date of September 11, 2005, which was adopted at the May 5, 2004 Annual Town Meeting and Chapter 355 of the Acts and Resolves of 2004.

**5.8 The Family and Medical Leave Policy & Small Necessities Leave Act:** The Family and



Medical Leave Policy and Massachusetts General Laws, Chapter 149, Section 52D, Small Necessities Leave Act are adopted and appended to this manual. The FMLA and SNLA do not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreements which provide greater family or medical leave rights.

**5.9 Parental Leave:** Massachusetts General Laws, Chapter 149, Section 105D requires employers to provide full-time and part-time employees with eight (8) weeks of unpaid leave for the purpose of giving birth or adopting a child. Employees may request to use accumulated vacation, sick or personal leave while on parental leave. No benefits will accrue during unpaid leave of more than one week. However, under COBRA, an employee may continue under the group insurance program during unpaid leave provided that the employee pays the full premium for such coverage plus any administrative fee.

A request for parental leave must be submitted at least two weeks in advance, or with as much notice as possible under the circumstances, of the anticipated date of departure with a statement of intent to return. Upon the expiration of the parental leave, the employee shall be restored to the former position or a similar position in the same classification and pay grade, provided that nothing has occurred during the leave that would have otherwise terminated the employment under existing law, rule or regulation.

Parental leave shall not affect the employee's right to receive vacation, sick leave, advancement, seniority, length of service, benefits, plans or programs for which the employee would be eligible at the date of the leave, but excluding the period of leave.

After the expiration of parental leave, employees failing to return to work will be subject to termination for abandoning their position unless otherwise prohibited by law.

**5.10 Unpaid Leave:** A regular part-time employee, who is not eligible to take leave under the terms of the Family and Medical Leave Policy: "Reasons for Taking Leave" may receive unpaid leave when requested in writing and approved by the department supervisor and the Town Manager. The maximum total unpaid leave in any 12-month period shall be eight (8) weeks. No benefits will accrue during unpaid leave of more than one week. However, under COBRA, an employee may continue under the group insurance program during unpaid leave provided that the employee pays the full premium for such coverage plus any administrative fee.

**5.11 Reporting Leave:** All leave shall be reported on the forms provided by the Town Manager prior to the employee's absence when possible.

## **5.12 Paid Holidays**

**5.12.1 Qualifications:** Payment under provisions of this section shall be made to employees with thirty (30) days or more of service, provided the employee shall have worked the day preceding and following such holiday or was in full pay status on such preceding and following days in accordance with other provisions of these guidelines.

**5.12.2** The following days shall be recognized as legal holidays within the meaning of this section:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
Presidents' Day	Veterans' Day
Patriots' Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Juneteenth	Christmas
Independence Day	

When Christmas Eve afternoon falls on a workday, it is considered a holiday. Employees shall be excused with pay from all duties not required to maintain essential town services.

**5.12.3** Whenever a holiday set forth in sub-section 5.12.2 falls on a Saturday or Sunday, the holiday shall be observed according to the State guidelines. If an employee's work schedule requires them to work a holiday, then the employee may take another day off at their

discretion within the current Fiscal Year, upon concurrence with their supervisor.

**5.13 Industrial Injury Benefits:**

- 5.13.1** This section applies to cases in which an employee sustains a personal injury for which workers' compensation benefits are payable under Massachusetts General Laws, Chapter 152. Such a personal injury is hereinafter in this section referred to as an "industrial injury." Generally speaking, an industrial injury includes any injury or illness which arises out of, and in the course of, the employee's employment which causes incapacity to work, either totally or partially.
- 5.13.2** No weekly Workers' Compensation benefits are payable for an industrial injury which does not disable the employee from earning full wages for a period of at least five days. If an employee sustains an industrial injury which is disabling for a period of five days or less, the employee shall be entitled to full pay for the period of disability and will not be charged for sick leave.
- 5.13.3** For any period for which weekly workers' compensation benefits are payable under Massachusetts General Laws, Chapter 152:
- (a) The employee shall be entitled to receive any overtime or vacation pay which has accrued without deduction of any Workers' Compensation benefits which may be payable for such period.
  - (b) The employee shall be entitled to use accumulated sick leave or vacation so that, when added to the Workers' Compensation weekly benefits, will result in the payment of full salary or wages.
- 5.13.4** If an employee is on leave due to his or her inability to perform the essential functions of his or her position with or without a reasonable accommodation, the employee's vacation, sick and personal will resume active status upon return to work. In addition, an employee will receive any grant or accrual of personal leave he or she would otherwise be entitled to for a period of one month. Such employees will also receive holiday pay for a period of one month.
- 5.13.5** If an employee is absent from work due to the employee's inability to perform the essential functions of his or her position, the Town, through the Town Manager and the employee's department head, will engage the employee in an interactive conference to determine what reasonable accommodation, if any, may be necessary to allow the employee to be able to perform the essential functions of his or her job with or without a reasonable accommodation.

**6. GUIDELINES CONCERNING ADMINISTRATION OF PAY PLAN**

**6.1 Appointments**

- 6.1.1** To provide employees with an opportunity to develop their career plans, all regular job vacancies shall be posted within the Town for a period of no less than one week. This posting shall include a description of job duties, qualifications and pay classification. Positions may also be advertised publicly.
- 6.1.2 Physical Examination:** An employee that has been made a conditional offer of employment shall be subject to a pre-placement physical examination at the expense of the Town, which will comply with the guidelines of the Americans with Disabilities Act and Massachusetts General Laws Chapter 151B. The examining physician shall determine whether the applicant is able to perform the essential functions of the position to which he or she has been conditionally appointed with or without a reasonable accommodation.

- 6.2 Removal of an Employee:** In accordance with Chapter 10-5-1 of the Town Charter, an

employee may be removed for cause by the Appointing Authority. The employee will be notified in writing as to the reason(s) for termination, the right to a public hearing, and the effective date of their termination.

- 6.3 Step Increase:** An employee may be eligible for a step increase based upon performance according to the provisions of the Pay Plan, if approved by the Town Manager after discussion with the employee's supervisor.

An employee whose performance or conduct does not meet the work level or conduct required for the employee's position, may not receive a step increase. The Employee's supervisor in concurrence with the Town Manager will notify the employee if an increase is to be held, and place written documentation into the employees personnel file.

- 6.4 Change in Classification:** Any change in a position classification, as allocated herein, must be recommended by the department head and approved by the Town Manager and the Personnel Board. Provisions governing promotions and demotions shall apply in determining the new pay level.

- 6.5 Temporary Appointment:** In the event of a vacancy, the Town Manager may appoint a qualified person to temporarily fill such position. In addition, a temporary appointment may also be made in the event that the regularly appointed employee is on a period of leave. The temporary appointment, however, shall not extend beyond the period of leave or beyond the date upon which the vacant position is filled on a regular basis.

- 6.5.1** An employee temporarily assigned to a position in a level with a higher minimum rate of pay shall receive the greater of the minimum rate of pay for the classification to which the employee is temporarily assigned or the employee's rate of pay from his/her prior classification. The employee will continue to receive regular step increases in his/her prior classification during the time he/she is temporarily assigned to the higher classification.

- 6.5.2** If an employee is temporarily assigned to a position in another level whose minimum rate of pay is the same or below that of the employee's regular level, the employee's rate of pay shall remain unchanged.

**6.6 Job Level Change**

- 6.6.1 Higher Level:** When an employee's job is changed to a higher level, their pay shall be increased to the minimum pay step for the higher level. If the employee's present rate is equal to or exceeds this minimum, their pay shall be increased to the next higher step in the level, regardless of the time since the last increase. Any current employee promoted or reclassified to step 1, 2, or 3 on the Town of Oxford Pay Plan, with recommendation of their supervisor, is eligible for an increase after 6 months.

- 6.6.2 Lower Level:** When an employee's classification is changed to a lower level, the employee shall be paid at their current rate if this rate is within the approved range for the lower classification. The employee will be eligible to receive future increases for the lower classification. If their current rate is above the range for the lower classification, their salary will be to the top rate of the lower classification and they will not be eligible to receive salary increases until the range for this lower classification exceeds their current rate.

- 6.7 Maximum Rate:** The compensation paid to an incumbent employee of any position in a given level shall not exceed the maximum rate in the pay range for that level except as provided in this Personnel Manual. An employee now receiving such compensation in excess of the proposed maximum shall continue to receive that rate of pay during the period of incumbency. No increase shall be granted the incumbent employee during this period until such time as the maximum pay rate for this classification exceeds the present rate of pay, whereupon the employee shall become eligible for pay adjustments, but the rate paid shall not exceed the new maximum.

- 6.8 Re-employment:** In the case of voluntary termination, layoff or reduction of personnel for lack of

work, or by reason of fiscal cutback, any employee rehired within one year of the date of separation shall be considered as having uninterrupted service for benefit purposes, and date of employment shall be the same as it was at the time of separation.

- 6.9 **Worcester Regional Contributory Retirement System:** The Town is a member of the Worcester Regional Contributory Retirement System. Accordingly, deductions are made from each employee's pay as established by state law and paid to the retirement system fund. The Town also contributes its share to the fund for each employee. Employees should consult the "Retirement for Public Employees in Massachusetts" booklet for further information on the retirement system.

7. **GRIEVANCE:** Any employee who believes they have been aggrieved by the application of any of these guidelines may make such grievance known through the process indicated herein. A grievance shall be limited to questions of interpretation and application of these guidelines and must be started within seven (7) days of the occurrence of the alleged violation. The grievant shall present the grievance to the department head in writing for resolution. If it is not resolved at that level within the seven (7) calendar days, the grievant shall present the grievance to the Town Manager in writing within seven (7) calendar days of notice of the department head's action. The Town Manager shall have fourteen (14) calendar days to process the grievance.

In addition, the employee may choose to provide a copy of their grievance to the Personnel Board. The Personnel Board will review the grievance and make recommendation to the Town Manager within fourteen (14) calendar days of receipt of the grievance.

## 8. **OPERATIONAL GUIDELINES**

- 8.1 **Time Sheets:** All non-exempt employees are required to maintain a record of the time they work. A time card report form is provided each week for this purpose. This record is used to arrange for payment of wages and salaries paid on a weekly basis. All employees must complete this record on a weekly basis and sign it to indicate its verification of accuracy. Records must be approved by the employee's immediate supervisor.
- 8.2 **Rest Periods:** Employees are allowed to take a 10-minute "rest" break from work each morning and afternoon. This break may be taken when it is convenient for the workflow in the department. Service departments may not be able to schedule a specific time for employee "breaks." Employees will be advised by their supervisors of the "break" schedule in their individual department.
- 8.3 **Lunch Break:** All non-emergency employees scheduled to work six (6) or more hours in a day must take a 30-minute unpaid lunch break each day. This break will be scheduled with the approval of the department heads.
- 8.4 **Gifts and Gratuities:** Pursuant to Chapter 268A of the Massachusetts General Laws (the Conflict of Interest Law) extra payments, gifts or privileges offered because of (but not necessarily to influence) your official actions are prohibited. Therefore, all employees are prohibited from accepting anything in addition to their salary in return for performing work that they are hired or elected to perform, even if given by a private party simply out of gratitude for a job well done.
9. **Police Lieutenant (This section added November 14, 2013):** In recognition of the unique nature of police work and in recognition of the fact that the classification of Police Lieutenant is excluded from collective bargaining and not eligible for an individual employment agreement by law, the appointing for the classification of Police Lieutenant shall have the authority to offer additional types of benefits to Police Lieutenants that are not explicitly provided-for in this Personnel Manual; provided such benefits are of the same type and do not exceed the benefit-level(s) offered to the Chief of Police by agreement.
10. **Inclement Weather Policy:** The Town Manager may determine that the weather conditions are unsafe for employees to travel and decide not to open non-essential Town offices. In that case, those employees will be notified via telephone as early as possible, that they are not to report to work. For employees that are benefit eligible (work at least 20 hours per week) and were scheduled to work (scheduled meaning not having requested the day off in advance for a Vacation, Personal or Sick Day)

will be paid in full according to their regular schedule.

In the event that the weather conditions dictate, during the course of the business day, the Town Manager may determine that it would be in the best interest of the safety of the employees to close non-essential Town offices before the regularly scheduled time. In that case, the Town Manager's office will notify all non-essential personnel of the early closure. All employees that have reported for their scheduled shift will be paid in full for the number of hours that they were scheduled to work.

The Director of the Oxford Community Center will continue to base their decisions on not opening the center or closing the center early in conjunction with the Oxford Public Schools.



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**Pursuant to the United States Drug-Free Workplace Act of 1988, the Town of Oxford adopts the following Policy concerning a Drug-Free Workplace.**

**DRUG-FREE WORKPLACE POLICY**

It is the policy of the Town of Oxford to provide a drug free workplace for all of its employees and to comply with the provisions of the United States Drug Free Workplace Act of 1988 (PF 100-690)

Accordingly, the Town of Oxford, a Federal Grant recipient, hereby notifies every employee that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance in the workplace is prohibited.

Violation of this policy shall result in disciplinary action including, but not limited to, suspension and / or termination. Furthermore, the Town establishes as a condition of employment that each employee must notify the Town Manager of any conviction for violation of the Federal or State criminal drug law occurring in the workplace.

Additionally, any employee, who is convicted of any violation of this policy, must within 5 days of any such conviction notify the Town Manager.

The Town Manager shall notify the appropriate Federal agency and shall have up to 30 days from the time of notification by the employee of a conviction for a workplace offense to take appropriate personnel action. The Town may require the employee to participate in an approved drug abuse assistance rehabilitation program.

This policy is effective as March 18, 1989.

Employees having any questions in regard to this policy are invited to meet with the Town Manager to discuss their concerns.

Given at Oxford this 27<sup>th</sup> day of June, 1989.





## ***Town of Oxford***

### ***Town Manager's Office***

*325 Main Street  
Oxford, Massachusetts 01540  
manager@town.oxford.ma.us*

Telephones:  
(508) 987-6030  
(508) 987-6031  
Fax: (508) 987-5868

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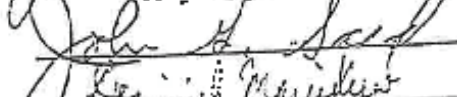
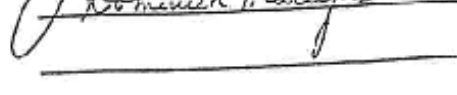
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Dennis A. Power/Town Manager

BOARD OF SELECTMEN

  
Joseph Maynard/Chairman  
  
  
\_\_\_\_\_  
\_\_\_\_\_



Town of Oxford  
Town Manager's Office  
325 Main Street  
Oxford, MA 01540  
[manager@town.oxford.ma.us](mailto:manager@town.oxford.ma.us)

Telephones:  
508-987-6030  
508-987-6031

Fax: 508-987-5868

## Nepotism Policy

**I. Introduction:** It is the policy of the Town of Oxford to prohibit Nepotism, which is the practice of hiring or promoting based on a personal relationship.

**II. Rationale:** The rationale behind this policy is that certain positions possess a sphere of influence that might lead to incidents, perceptions or allegations of favoritism in employment, and those incidents negatively affect the efficient delivery of services by the Town to its citizens. By adopting this policy, such situations can be prevented.

**III. Policy:** The Town will generally avoid the hiring, transfer or promotion of relatives of officials or employees into situations where the possibility of favoritism or a conflict of interest exists, particularly where an employee or official occupies a supervisory position in the chain of command over the position for which the relative would be employed. The Town, however, may hire, transfer, or promote an applicant or employee into such a position if the Town Manager determines that favoritism or a potential conflict of interest can be avoided by reassignment, of which doing so would be in the best interests of the Town and would not create the appearance of or an actual conflict of interest under the Massachusetts General Laws, Chapter 268A, which could not be otherwise resolved.

No official or employee of the Town shall offer his or her relative employment, act or fail to act in regard to a relative's employment or influence or attempt to influence others with regard to his or her relative's candidacy for employment or employment without the prior approval of the Town Manager. To this end, all officials and employees who have knowledge that a relative is a candidate for employment or for appointment as an official or is an employee or official of the Town must disclose the nature of the relationship to the Town manager as soon as the official or employee learns of the relative's candidacy.\* Similarly, all applicants for employment shall be required to disclose in writing any familial relationship with an officer or employee of the Town.

This policy supplements the requirements of Massachusetts General Laws, Chapter 268A and this policy. Accordingly, each individual must comply with the requirements of Chapter 268A and this policy.

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\*Upon the adoption of this policy, all current employees and officials have 30 calendar days to disclose existing familial relationships.



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### COMMISSION ADVISORY NO. 86-02

#### NEPOTISM

#### INTRODUCTION

The purpose of this advisory<sup>(1)</sup> is to outline the prohibitions against nepotism contained in the conflict of interest and to provide guidance on how to comply with the conflict of interest law when confronted with a nepotism situation.<sup>(2)</sup>

#### I. NEPOTISM IS PROHIBITED

The conflict law prohibits elected and appointed public officials at the state, county, and municipal level from participating<sup>(3)</sup> in particular matters<sup>(4)</sup> in which their immediate family members have a financial interest.<sup>(5)</sup> Immediate family is defined in the statute as "the employee and his spouse, and their parents, children, brothers and sisters." For example, an official's brother-in-law would be considered "immediate family" if he were the brother of the official's spouse but not if he were married to the official's sister.

In addition to these sections of the law, nepotism raises concerns under G.L. c. 268A, §23, which sets forth standards of conduct regulating all public employees. Essentially, §23 prohibits public officials from using their position to secure an unwarranted privilege of substantial value for themselves or others, or from acting in a manner which gives a basis for the impression either that they are improperly influenced by another person, or that someone is unduly enjoying their favor because of kinship. Therefore, if a public official wishes to participate in a matter which affects the financial interest of a relative, even if that relative is not a member of his or her immediate family, (e.g., a cousin or a niece) they may not give preference to the relative because of the relationship. They must also be careful to avoid the appearance of favoritism based on kinship. This is done by publicly disclosing the relationship and following ordinary and accepted procedures without deviation.

The purpose of these provisions is to prevent conflicts or the appearance of impropriety that can arise whenever a public official's personal loyalty to a family member competes with the public interest that objective decisions be made regarding public employment.

#### II. SPECIFIC ACTS THAT ARE PROHIBITED

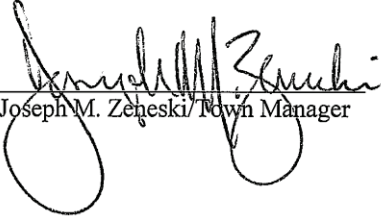
1. A public official may not hire an immediate family member.<sup>(6)</sup> As stated above, the conflict law prohibits a public employee from participating in any particular matter in which a family member has a financial interest. The decision to hire is a particular matter in which an official is "personally and substantially" participating, and the family member has an obvious financial interest in the hiring decision.

Personal and substantial participation involves more than just voting. It involves any significant involvement in the hiring process such as discussion or recommendation or other matters leading up to the vote. For example, interviewing or creating a test for applicants, one of whom is a family member, would violate the law. Generally, the best course would be to leave the room when a matter involving a family member's financial interest arises.<sup>(7)</sup>

An official need not be the sole decision-maker to be prohibited from participating in the hiring decision. For example, an official cannot, as one member on a board, vote to hire his or her family member, regardless of the size of the board. Nor would it matter that there was little, if any, controversy among the board members regarding the decision. A

V. Adoption by Personnel Board

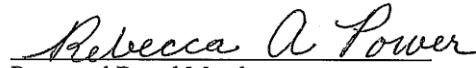
This policy was adopted by the Town on February 19, 2009.

  
Joseph M. Zeneski/Town Manager

  
Personnel Board Member

  
Personnel Board Member

  
Personnel Board Member

  
Personnel Board Member

  
Personnel Board Member



## State Ethics Commission

### Advisory 86-02: Nepotism

#### INTRODUCTION

The purpose of this advisory <sup>(1)</sup> is to outline the prohibitions against nepotism contained in the conflict of interest law and to provide guidance on how to comply with the law when confronted with a nepotism situation. <sup>(2)</sup>

#### **I. NEPOTISM IS PROHIBITED**

The conflict law prohibits elected and appointed public officials at the state, county, and municipal level from participating <sup>(3)</sup> in particular matters <sup>(4)</sup> in which their immediate family members have a financial interest. <sup>(5)</sup> Immediate family is defined in the statute as "the employee and his spouse, and their parents, children, brothers and sisters." For example, an official's brother-in-law would be considered "immediate family" if he were the brother of the official's spouse but not if he were married to the official's sister.

In addition to these sections of the law, nepotism raises concerns under G.L. c. 268A, § 23, which sets forth standards of conduct regulating all public employees. Essentially, § 23 prohibits public officials from using their position to secure an unwarranted privilege of substantial value for themselves or others, or from acting in a manner which gives a basis for the impression either that they are improperly influenced by another person, or that someone is unduly enjoying their favor because of kinship. Therefore, if a public official wishes to participate in a matter which affects the financial interest of a relative, even if that relative is not a member of his or her immediate family, (e.g., a cousin or a niece) they may not give preference to the relative because of the relationship. They must also be careful to avoid the appearance of favoritism based on kinship. This is done by publicly disclosing the relationship and following ordinary and accepted procedures without deviation.

The purpose of these provisions is to prevent conflicts or the appearance of impropriety that can arise whenever a public official's personal loyalty to a family member competes with the public interest that objective decisions be made regarding public employment.

#### **II. SPECIFIC ACTS THAT ARE PROHIBITED**

1. A public official may not hire an immediate family member. <sup>(6)</sup> As stated above, the conflict law prohibits a public employee from participating in any particular matter in which a family member has a financial interest. The decision to hire is a particular matter in which an official is "personally and substantially" participating, and the family member has an obvious financial interest in the hiring decision.

Personal and substantial participation involves more than just voting. It involves any significant involvement in the hiring process such as discussion or recommendation or other matters leading up to the vote. For example, interviewing or creating a test for applicants, one of whom is a family member, would violate the law. Generally, the best course would be to leave the room when a matter involving a family member's financial interest arises. <sup>(7)</sup>

An official need not be the sole decision-maker to be prohibited from participating in the hiring decision. For example, an official cannot, as one member on a board, vote to hire his or her family member, regardless of the size of the board. Nor would it matter that there was little, if any, controversy among the board members regarding the decision. A person can no more participate in making a vote of a 15-member board unanimous by casting the 15th vote than one can cast the deciding vote in an eight-to-seven vote.

It also makes no difference whether an official has unilateral authority over personnel decisions or whether he or she is one link in a bureaucratic chain of approvals. A typical example arises where a sub-committee conducts a search to fill a municipal position. The sub-committee's preferred list of candidates is then narrowed down by the full search committee and the candidate is ultimately chosen by a city council. A public official with a family member in the pool of candidates cannot participate in the sub-committee's search, the full committee's approval of a list of candidates, or the city council's final decision.

2. In addition to hiring's, any significant involvement in the reappointment, promotion, reclassification, demotion, or firing of an immediate family member is prohibited. A public official may not participate in a job performance evaluation of an immediate family member because such evaluations play a critical role in job retention, promotion, and other job-related benefits of financial interest to the employee.

The Commission also views day-to-day active supervision as constituting personal and substantial participation. (8) The process by which employees are retained or fired, promoted or demoted, or granted or refused step increases is not merely a function of a formal personnel evaluation. Realistically, those decisions are based on the supervisor's cumulative impressions derived from his or her day-to-day supervision of the employee. Therefore, while there may be exceptions, day-to-day supervision of a family member is barred because it is an integral part of the evaluation process.

3. Determining a family member's salary or benefits is barred. The prohibition includes approving or authorizing discretionary salary increases such as annual step increases, even though they may be thought of as "automatic". (9)

4. A subordinate may not provide advice or make a recommendation to his or her employer a personnel decision in which the subordinate's immediate family member has a financial interest. (10)

5. Negotiating or approving collective bargaining agreements or other contracts where the financial interests of family members will be affected in also prohibited.

6. Finally, signing warrants authorizing payroll or other payments to immediate family members in prohibited.

### **III. DELEGATION**

A public official is prohibited not only from participating in personnel decisions affecting his or her family members, but also from delegating the authority to a subordinate. Because the official is in a position to choose and influence the person most likely to favor his or her family member, the choice of who will make the decision is an important part of the overall hiring decision. (11)

In some instances, an elected public official is, by law, the sole legal authority with power to take certain actions, such as serving as the city's collective bargaining representative. If a public official who has the sole legal authority to act is prohibited from doing so in such matters as collective bargaining because the financial interest of an immediate family member would be impacted, the Commission has ruled that the public official may invoke the rule of necessity to designate an alternate to act as the collective bargaining representative. (12) Contact agency counsel, town counsel or the State Ethics Commission for further information on invoking the rule of necessity.

### **IV. DISCLOSURE AND AUTHORIZATION**

What action, if any, should a public official take when faced with a potential nepotism situation? The answer depends on the position the official holds, because the conflict of interest law treats state and county officials differently depending on whether they are elected or appointed. The law also treats local appointed officials differently from state and county appointed officials.

#### **State and County Appointed Officials**

For state and county appointed officials, the rule is quite specific: if their duties would otherwise require them to participate in a particular matter in which a family member has a financial interest, they must disclose in writing all of the relevant facts to their appointing authority and the Commission, and the appointing authority must then decide whether to undertake the function himself or herself, assign it to someone else, or allow the official to participate. (13) If the appointing authority decides to authorize the public official to participate, he or she must do so explicitly in writing, and a copy of that authorization must be submitted to the Commission. (14)

### **Municipal Appointed Officials**

In contrast, under the conflict law, municipal officials may abstain from participating in the matter and thereby avoid any violation. They do not have to disclose to anyone that they are abstaining. Alternatively, they may seek the authorization from their appointing authority to participate by disclosing in writing all the relevant facts. The authorization must be granted in writing. Copies of the request and the authorization do not have to be filed with the Commission but they must be available for public inspection. <sup>(15)</sup>

### **Elected Officials**

Because elected officials at the state, county and municipal levels of government do not have an appointing authority; they cannot take advantage of the disclosure and authorization provisions available to appointed officials. There is no statutory mechanism which permits their participation without violating the statute, and, therefore, they must abstain from participation.

## **V. ACTION BY SUBORDINATES**

The one remaining issue is whether an elected official (or an appointed municipal official who chooses not to seek an authorization to participate) may abstain from the process entirely and have a subordinate handle the hiring (or other personnel) decision. This situation is distinguishable from the delegation of a hiring decision by an elected official. As indicated above, delegation is prohibited. The question is whether the elected official may simply abstain and, without providing any direction, leave to the subordinate the decision to hire (or promote, etc.) the family member.

The question of whether the subordinate has the authority to perform the duty in place of his or her superior is not addressed by the conflict of interest law. The answer must be determined by interpreting the statute which creates the principal official's position, and, specifically, any language which might provide a mechanism permitting a subordinate to act following the "disability" (whether physical, mental, or otherwise, including a conflict of interest) of the principal official.

A review of many such statutes reveals no consistent rule indicating when such authority may be exercised by a subordinate. Accordingly, any response the Commission will give to a request for an opinion on how the conflict of interest law will apply where an elected official abstains and a subordinate seeks to hire will be conditioned on the official's obtaining an opinion as to the legality of the personnel action by the subordinate. State officials should request such an opinion from the attorney general; municipal employees from the town or corporation counsel; and county employees from the legal counsel for the county. <sup>(16)</sup>

## **CONCLUSION**

This advisory highlights the most common nepotism situations. An advisory cannot deal with every possible situation and indeed, may raise as many questions as it answers. The Commission encourages public officials and employees at all levels of government to seek advice from the Commission as to how the law applies to their own situations.

DATE AUTHORIZED: December 15, 1986

REVISED: January 2004

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<sup>1</sup> The Commission issues Advisories periodically to interpret various provision of the conflict of interest law. Advisories respond to issues that may arise in the context of a particular advisory opinion or enforcement action but which have the potential for broad application. It is important to keep in mind that this advisory is general in nature and is not an exhaustive review of the conflict law. For specific questions, public officials and employees should contact their agency counsel or the Legal Division of the State Ethics Commission at (617) 371-9500. Copies of all Advisories are available from the Commission office or online at [www.mass.gov/ethics](http://www.mass.gov/ethics).

<sup>2</sup> The term "nepotism" originates from the Latin word for nephew. It originally referred to favoritism to a nephew in granting official positions. Nepotism is now commonly understood to include favoritism of any sort afforded any relative.

<sup>3</sup> G.L. c. 268A, § 1(j) defines participate as "participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise."



4. G.L. c. 268A, § 1(k) defines particular matter as "any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property."

5. See, G.L. c. 268A, §§ 6, 13 and 19 dealing with state, county, and local officials, respectively.

6. Exemptions for appointed public officials are discussed in Part IV below.

7. See, generally *Graham v. McGrail*, 370 Mass. 133 (1976).

8. Active supervision is distinguished from those situations where the public official has official responsibility for his or her family member as a public employee, but does not directly participate in dealing with the family member. A typical example would be where the head of a large agency oversees several divisions but delegates the supervision of each to a division chief, and the division chief supervises the family member.

9. By law, step increases may be withheld by a department head. See, G.L. c. 30, § 46(c) (3), and c. 35, § 54 for state and county employees, respectively.

10. This should be distinguished from the situation where someone in a different division in the same agency or someone outside of an agency gives a recommendation or reference regarding a candidate for a job. For example, a municipal planning board member who called a supervisor in the Department of Public Works (DPW) to recommend a family member for a DPW job would not be participating personally and substantially in the hiring decision. Similarly, a state official may recommend someone to another state agency for a job if this is done without placing improper pressure on the state agency. Section 23 concerns could arise, however, if pressure is or appears to be exerted. Indeed, an outsider's recommendation can involve such substantial pressure on an agency as to be deemed personal and substantial participation by the outsider, thereby, violating § 6. In the *Matter of James Craven*, 1980 SEC 17.

11. The Commission recognizes that this is a difficult issue, because a family member's financial interest may or may not be affected by the choice of who will make the decision. Nevertheless, because it is not practical to determine which delegations are proper and which are not, and because such delegations can play a critical role in the hiring process, the Commission has determined that any such delegations constitute personal and substantial participation.

12. See Commission Fact Sheet No. 5: The Rule of Necessity.

13. Certain board members, whose duties do not require participation, are not required to make a disclosure provided that they abstain from the matter. However, if such board members seek to participate in the matter, they must follow all of the steps discussed in this paragraph in order to comply with the law.

14. Disclosure forms are available on the Commission's website at [www.mass.gov/ethics/Formlist.htm](http://www.mass.gov/ethics/Formlist.htm).

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16. Even in those instances where a law authorizes a subordinate to assume the hiring role, two significant issues arise under § 23 of the conflict law. First, the subordinate may not use his or her position to secure an unwarranted privilege for the applicant, i.e. hire the family member because of their relationship rather than his or her qualifications. If the subordinate so hired an unqualified family member, he or she would violate § 23(b) (2).

Secondly, where the subordinate hires his or her supervisor's family member and where the subordinate serves at the pleasure of his or her supervisor, the question inevitably arises whether the subordinate can realistically make an objective decision regarding the family member. It would seem difficult, or nearly impossible, to avoid the appearance of a lack of objectivity. Thus, a problem is created under § 23(b)(3), which generally prohibits an official from acting in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can unduly enjoy their favor in the performance of their official duties. In order to dispel any such conclusion will be deemed unreasonable if the subordinate must disclose in

writing to his appointing authority, or if no appointing authority exists discloses publicly that the public official is making a decision affecting his or her supervisor's immediate family member.

Public disclosure is not defined in the conflict law, although the statute makes it clear that all c. 268A disclosures must be made in writing. In fulfilling its function to interpret the statute, the Commission has determined that for state and county officials, this written public disclosure should be made to the appropriate clerk (e.g., an elected county commissioner would file with the county clerk) or to the Commission, where such disclosure will be a matter of public record. For municipal officials, the disclosure should be made, again in writing, to the city or town clerk.

### 10.3



## **TOWN OF OXFORD** **HARASSMENT OF INDIVIDUALS IN PROTECTED CLASSES:\*** **POLICY AND PROCEDURES**

### **I. Policy**

**A. Introduction.** The Town of Oxford (the “Town”) depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to providing a working environment that is free of all forms of abuse or harassment. The Town recognizes the right of all employees to be treated with respect and dignity.

Harassment on the basis of race, creed, color, national origin, age, physical or mental disability, or sexual orientation (hereafter referred to as “protected class harassment”) is a form of behavior which adversely affects the employment relationship. It is prohibited by State and Federal law. Protected class harassment of individuals occurring in the workplace or in other settings in which individuals of the Town may find themselves in connection with their employment is unlawful and will not be tolerated by the Town. The Town also condemns and prohibits protected class harassment by any applicant, client, vendor or visitor.

Because the Town takes allegations of protected class harassment seriously, we will respond promptly to complaints of protected class harassment and where it is determined that 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, including discharge.

It is important to note that while this policy sets forth our goals of promoting a workplace that is free of protected class 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 protected class harassment.

**B. Definition of Protected Class Harassment.** Protected class harassment refers to behavior which is not welcomed by the employee, which is personally offensive to him or her, and which undermines morale and/or interferes with the ability of the employee to work effectively. While it is not possible to list all of the circumstances that may constitute protected class harassment, depending upon the totality of the facts, including the severity of the conduct and its pervasiveness, following is a list of situations that could constitute protected class harassment.

- verbal abuse on the basis of any protected status;
- use of words that degrade a protected class or person because of his/her protected class statuses
- jokes or language about a protected class;

- obscene or suggestive gestures or sounds intended to relate to the protected class;
- teasing related to the protected class;
- verbal comments of a nature about an individual's appearance or terms used to describe an individual that are related to the individuals protected class;
- verbal abuse, comments, jokes, teasing or threats directed at a person because of his/her protected class status;
- posting or distributing objects, pictures, cartoons or other materials degrading to the protected class or a person because of his/her protected class status;
- letters or notes that degrade the protected class or a person because of his/her protected class status;
- sending offensive or discriminatory messages or materials through the use of electronic communications (e.g., electronic mail, including the Internet, voice mail and facsimile) which are degrading to the protected class or a person because of his/her protected class status;
- condoning harassment on the basis of protected class.

Harassment on the basis of protected class status is not limited to behavior by a non-member of the protected class. 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;
- A member of the protected class may be victimized by another member of the protected class;
- The victim does not have to be the person at whom the unwelcome protected class 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 co-worker or interferes with the co-worker's work performance;

**Individual Responsibilities:** Each individual of the Town is personally responsible for:

- ensuring that his/her conduct does not harass any other employee or person with whom the employee comes in contact on the job, such as an outside vendor;
- cooperating in any investigation of alleged protected class harassment by providing any information he/she possesses concerning the matter being investigated;
- actively participating in efforts to prevent and eliminate protected class harassment and to maintain a working environment free from such discrimination; and
- ensuring that an employee who files a protected class harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

**C. The Rule:** It is, therefore, against the policy of the Town for any individual, whether a member of a protected class or not, to harass another individual on the basis of protected class status by:

- making submission to such conduct is made either implicitly or explicitly a term or condition of an employee's employment;
- making submission to, or rejection of, such conduct by an individual is made the basis for employment decisions affecting the employee;
- intending to or having the effect of interfering with an individual's work performance;
- or
- by creating a hostile or intimidating work environment for the employee.

It is also against the policy of the Town for an individual to harass any person with whom the employee comes in contact on the job or to engage in any protected class harassment or inappropriate or unprofessional conduct in the workplace.

**D. Retaliation.** Retaliation against an individual for filing a complaint of protected class harassment or against any individual for cooperating in an investigation of a protected class harassment complaint is against the law.



## **II. Violation of Policy**

Any individual violating this policy will be subject to appropriate discipline, including possible discharge.

## **III. Procedures for Complaints**

### **A. Complaint**

The Town has designated a Protected Class Harassment Grievance Officer. The current Protected Class Harassment Grievance Officer is Jennifer Callahan, Town Manager. She can be reached at the Office of the Town Manager, Town of Oxford, 325 Main Street, Oxford, MA 01540, and her telephone number is (508) 987-6030. If you would prefer, you may contact HR Specialist who has been designated as the Alternate Protected Class Harassment Grievance Officer. She can be reached at the Town Hall, HR / Payroll Department 325 Main Street, Oxford, MA 01540, and her telephone number is (508) 987-6035.

If any individual believes he or she has been subject to protected class harassment on the basis of his/her protected class, the individual should initiate a complaint by contacting the Protected Class Harassment Grievance Officer as soon as possible. The individual should file the complaint promptly following any incident of protected class harassment. The individual should be aware that the longer the period of time between the event giving rise to the complaint and the filing, the more difficult it will be for the Protected Class Harassment Grievance Officer to reconstruct what occurred. The individual will be requested to write out his or her complaint to document the charge.

If an employee prefers to discuss a possible protected class harassment problem with his or her supervisor, the employee may always do so, but employees do not have to go through the regular chain of supervision when reporting protected class harassment and may go directly to the Grievance Officer.

### **B. Investigation**

On receiving the complaint, the Protected Class harassment Grievance Officer or the Alternate Protected Class Harassment Grievance Officer will promptly have a preliminary investigation made into the matter. If after the completion of this preliminary investigation it is determined that there is reasonable cause for finding a violation of this policy, the Town will notify the complainant and the charged employee of the finding orally. The charged employee will be requested to respond to the complaint. Additional investigation will be made to the extent appropriate in each case. This process will be confidential to the extent consistent with an effective investigation, subject to the business needs of the Town.

### **C. Decision**

After the response of the charged individual has been made, and any further investigation which may be warranted has been carried out, the Town will make a final decision. If the Town finds that the allegations in the complaint have been established by the investigation, the Town will initiate discipline of the charged individual. Discipline will be appropriate to the offense and employees involved, and may include discharge.

The complainant will be notified of the disposition of the investigation.

## **IV. State and Federal Agencies**

The Massachusetts Commission against Discrimination ("MCAD"), located at One Ashburton Place, Boston, MA 02108, and 436 Dwight Street, Springfield, MA 01103, is responsible for enforcing the Massachusetts discrimination and protected class harassment law, and the U.S. Equal Employment Opportunity Commission ("EEOC") is responsible for enforcing the federal law prohibiting protected class harassment. The EEOC is located at JFK Federal Office Building, Government Center, Room

475, Boston, MA 02203. They may be contacted at the above addresses. A complaint to the MCAD must be filed within six months. 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.

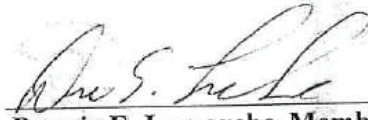
## **TOWN OF OXFORD**

### **HARASSMENT OF INDIVIDUALS IN PROTECTED CLASSES POLICY AND PROCEDURES**

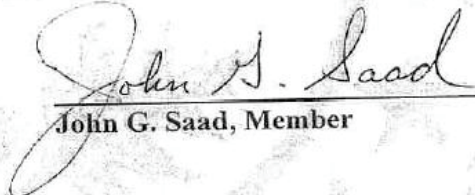
Adopted June 6, 2000  
Re-Adopted September 1, 2009

#### **BOARD OF SELECTMEN**

  
Jennie L. Caissie, Chairman

  
Dennis E. Lamarche, Member

  
Henry J. LaMountain, Sr., Vice-Chairman

  
John G. Saad, Member

  
Susan M. Gallant, Secretary



## **TOWN OF OXFORD** **SEXUAL HARASSMENT: POLICY AND PROCEDURES**

### **I. Policy**

- A. Introduction.** The Town of Oxford (the "Town") depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to providing a working environment that is free of all forms of abuse or harassment. The Town recognizes the right of all employees to be treated with respect and dignity.

Sexual harassment is a form of behavior which adversely affects the employment relationship. It is prohibited by State and Federal law. Sexual harassment of individuals occurring in the workplace or in other settings in which individuals of the Town may find themselves in connection with their employment is unlawful and will not be tolerated by the Town. The Town also condemns and prohibits sexual or other harassment by any applicant, client, vendor or visitor.

Because the Town takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is determined that 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, including discharge.

It is important to 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.

- B. Definition of Sexual Harassment.** Sexual harassment does not refer to purely voluntary social activities. It refers to behavior which is not welcomed by the employee, which is personally offensive to him or her, and which undermines morale and/or interferes with the ability of the employee to work effectively. While it is not possible to list all of the circumstances that may constitute sexual harassment, depending upon the totality of the facts, including the severity of the conduct and its pervasiveness, the following is a list of situations that's could constitute sexual harassment.

- verbal abuse of a sexual nature;
- use of sexually degrading words;
- jokes or language of a sexual nature;
- conversation or gossip with sexual overtones;
- obscene or suggestive gestures or sounds
- sexual oriented teasing;
- verbal comments of a sexual nature about an individual's appearance or sexual terms used to describe an individual;
- inquiries into one's sexual experiences;
- discussion of one's sexual activities;
- comments, jokes or threats directed at a person because of his/her sexual orientation;
- unwelcome and repeated 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;
- physical contact such as touching, hugging, kissing, stroking, fondling, patting, pinching or repeated brushing up against one's body;
- deliberate bumping, cornering, mauling, grabbing;
- assaults, molestation or coerced sexual acts;
- posting or distributing sexually suggestive objects, pictures, cartoons or other materials;
- sexually-oriented letters or notes;
- sending offensive or discriminatory messages or materials through the use of electronic

communications (e.g., electronic mail, including the Internet, social websites, including but not limited to Facebook and Twitter, voice mail and facsimile) which contain overt sexual language, sexual implications or innuendo, or comments that offensively address someone's sexual orientation;

- staring at part of a person's body;
- sexually suggestive gestures, leering; and
- condoning sexual harassment.

Sexual harassment is not limited to prohibited behavior by a male employee toward a female employee. Sexual harassment can occur in a variety of circumstances. Here are some things to remember.

- A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man 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.
- 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 co-worker or interferes with the co-worker's work performance.

### **Individual Responsibilities**

Each individual is personally responsible for:

- ensuring that his/her conduct does not sexually harass any other employee or person with whom the employee comes in contact on the job, such as an outside 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 working environment free from such discrimination; and
- ensuring that an employee who files a sexual harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

**C. The Rule.** It is, therefore, against the policy of the Town for any individual, male or female, to harass another individual sexually, that is, by making unwelcome sexual advances, requests for sexual favors, or other uninvited verbal or physical conduct of a sexual nature when:

1. submission to such conduct is made either implicitly or explicitly a term or condition of an employee's employment;
2. submission to, or rejection of, such conduct by an individual is made the basis for employment decisions affecting the employee;
3. such conduct has the purpose or effect of interfering with an individual's work performance; or
4. a hostile or intimidating work environment is created for the employee.

It is also against the policy of the Town for an individual to sexually harass any person with whom the employee comes in contact on the job or to engage in any harassment or inappropriate or unprofessional conduct in the workplace.

**D. Retaliation.** Retaliation against an individual for filing a complaint of sexual harassment or against any individual for cooperating in an investigation of a sexual harassment complaint is against the law.

## **II. Violation of Policy**

Any individual violating this policy will be subject to appropriate discipline, including possible discharge by the Town.

## **III. Procedures for Complaints**

#### **A. Complaint**

The Town has designated a Sexual Harassment Grievance Officer. The current Sexual Harassment Grievance Officer is Jennifer Callahan. Mrs. Callahan can be reached at the Town Hall, Memorial Hall, 325 Main Street, Oxford, MA 01540, her telephone number is (508) 987-6030 or via email to

[jcallahan@town.oxford.ma.us](mailto:jcallahan@town.oxford.ma.us). Office hours are 9:00 am – 4:30 pm Monday through Friday. If

you would prefer, you may contact HR Specialist, who has been designated Alternate Sexual Harassment Grievance Officer. The Officer can be reached at the Town Hall HR / Benefits Dept

325 Main Street Oxford, MA 01540, her telephone number is (508) 987-6035 or via email

[oxfordhr@oxfordma.us](mailto:oxfordhr@oxfordma.us). Her office hours are 8am-4:30pm Monday through Friday.

If any individual believes he or she has been subject to sexual harassment, the individual should initiate a complaint by contacting the Sexual Harassment Grievance Officer or Alternate as soon as possible, as there are specific State and Federal Statute of Limitations in which to file a complaint. (See State and Federal Agencies section below for Statute of Limitations). The individual should be aware that the longer the period of time between the event(s) prompting the complaint and the filing, the more difficult it will be for the Sexual Harassment Grievance Officer to and effectively investigate the alleged harassment. individual will be requested to write out his or her complaint to document the charge.

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

#### **B. Investigation**

On receiving the complaint, the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer will promptly have a preliminary investigation made into the matter. If, after the completion of this preliminary investigation, it is determined that there is reasonable cause for finding a violation of this policy, the Town will notify the complainant and the charged employee of the finding orally. The charged employee will be requested to respond to the complaint orally, or in writing if so required by the Sexual Harassment Officer. Additional investigation will be made to the extent appropriate in each case. This process will be confidential to the extent consistent with an effective investigation, subject to the business needs of the Town.

#### **C. Decision**

After the response of the charged individual has been made, and any further investigation which may be warranted has been carried out, the Town will make a final decision. If the Town finds that the allegations in the complaint have been established by the investigation, the Town will initiate discipline of the charged individual. Discipline will be appropriate to the offense and employees involved, and may include discharge. The complainant will be notified of the disposition of the investigation.

#### **IV. State and Federal Agencies**

The Massachusetts Commission Against Discrimination, ("MCAD") is responsible for enforcing the Massachusetts sexual harassment law and the U.S. Equal Employment Opportunity Commission ("EEOC") is responsible for enforcing the federal law prohibiting sexual harassment.

If you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the government agencies listed 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 - 300 days; MCAD - 300 days).

**MCAD OFFICES:**

**BOSTON, MA**

One Ashburton Place  
Sixth Floor, Room 601  
Boston, MA 02108  
PHONE: 617-994-6000  
TTY: 617-994-6196  
Hours to file complaint  
8:45 am – 4:00 pm  
Monday – Friday

**SPRINGFIELD, MA**

436 Dwight Street  
Second Floor, Room 220  
Springfield, MA 01103  
PHONE: 413-739-2145  
Hours to file complaint  
9:00 am – 4:00 pm  
Monday – Friday

**WORCESTER, MA**

Worcester City Hall  
455 Main Street, Room 101  
Worcester, MA 01608  
PHONE: 508-799-8010  
FAX: 508-799-8490  
Hours to file complaint  
9:00 am – 4:00 pm  
Monday - Friday

**NEW BEDFORD, MA**

800 Purchase Street, Room 501  
New Bedford, MA 02740  
PHONE: 508-990-2390  
FAX: 508-990-4260  
Hours to file complaint  
9:00 AM – 4:00 PM  
Monday – Friday

**EEOC OFFICE:**

**BOSTON AREA OFFICE**


John F. Kennedy Federal Bldg.  
475 Government Center  
Boston, MA 02203  
PHONE: 1-800-669-4000  
FAX: 617-565-3196  
TTY: 1-800-669-6820  
Intake Hours are  
8:30 am – 4:00 pm  
Monday - Friday



**TOWN OF OXFORD**  
**SEXUAL HARASSMENT**  
**POLICY AND PROCEDURES**

Adopted June 6, 2000  
Re-Adopted September 1, 2009  
Re-Adopted July 9, 2013

***BOARD OF SELECTMEN***

  
\_\_\_\_\_  
John G. Saad, Chairman

  
\_\_\_\_\_  
Jarred J. Mahota, Member

  
\_\_\_\_\_  
Dennis E. Lamarche Vice-Chairman

  
\_\_\_\_\_  
Alan R. Berthiaume Member

  
\_\_\_\_\_  
Michael Voas, Secretary

**TOWN OF OXFORD**  
**FAMILY AND MEDICAL LEAVE POLICY**

**A. INTRODUCTION**

The Federal Family and Medical Leave Act of 1993 ("FMLA" or the Act") was enacted on February 5, 1993, and became effective on August 5, 1993.

The FMLA entitles eligible employees to take up to twelve weeks of unpaid, job-protected leave each year for specified family and medical reasons.

**B. EMPLOYEE ELIGIBILITY**

To be eligible for FMLA benefits with the Town of Oxford (the "Town"), an employee must:

1. work for the Town;
2. have worked for the Town for a total of at least twelve months; and
3. have worked at least 1,250 hours over the previous twelve months.

**C. LEAVE ENTITLEMENT**

The Town will grant an eligible employee up to a total of twelve workweeks of unpaid leave during a rolling year for one or more of the following reasons:

1. for the birth or placement of a child for adoption or foster care;
2. to care for an immediate family member (spouse, child, or parent) with a serious health condition; or
3. to take medical leave when the employee is unable to work because of a serious health condition.

Spouses employed by the Town are jointly entitled to a combined total of twelve workweeks of family leave.

Leave for birth or placement for adoption or foster care must conclude within twelve months of the birth or placement.

Under some circumstances, employees may take FMLA leave intermittently.

Also, employees or the Town may choose to use accrued paid leave, such as sick or vacation leave, to cover some or all of the FMLA leave. In no case, however, can use of paid leave be credited as FMLA leave after the leave has ended.

**D. MAINTENANCE OF HEALTH BENEFITS**

The Town will maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. The employee will make arrangements with the Town to pay his or her share of health insurance premiums while on leave. The Town may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

**E. JOB RESTORATION**

Upon return from FMLA leave, an employee will be restored to his or her original job, or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

In addition, an employee's use of FMLA leave will not result in the loss of an employment benefit that the employee earned or was entitled to before using FMLA leave.



## **F. NOTICE AND CERTIFICATION**

Employees seeking to use FMLA leave are required to provide to their department head:

1. Thirty (30) days advanced notice of the need to take FMLA leave when the need is foreseeable, otherwise as soon as is practicable;
2. Medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member.
3. Second or third medical opinions and periodic recertification's (at the Town's expense) if requested by the Town; and
4. Periodic reports during FMLA leave regarding the employee's status and intent to return to work as requested by department heads.

When leave is needed under the category of care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupts the Town's operation.

## **G. OTHER PROVISIONS**

The FMLA does not affect any other federal or state law that prohibits discrimination, nor supersede any state or local law that provides greater family or medical leave protection. Nor does it affect the Town's obligation to provide greater leave rights under a Collective Bargaining Agreement or employment benefit Plan, where applicable.

## **H. DEPARTMENT PROCEDURES**

The Town Manager may establish administrative procedures to implement this policy, consistent with the policy.

## **I. ADOPTION of FAMILY MEDICAL LEAVE POLICY BY THE TOWN**

This policy was adopted by the Oxford Board of Selectmen on May 23, 1995.



## 10.6

### **SMALL NECESSITIES LEAVE ACT M.G.L. C.149, §52D**

The Small Necessities Leave Act mandates that certain employers provide up to 24 hours of unpaid leave during any twelve-month period to “eligible employees.” This leave is in addition to the 12 weeks already allowed under the Federal Family Medical Leave Act.

#### **REASONS FOR TAKING LEAVE:**

The 24 hour unpaid leave may be taken for any of the following reasons:

- to participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as parent-teacher conferences or interviewing for a new school; or
- to accompany the son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations; or
- to accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services related to the elder’s care, such as interviewing at nursing or group homes.

#### **NOTICE REQUIREMENT/CERTIFICATION:**

To be entitled to the leave, employees must provide notice to the employer as follows:

- if the need for leave is foreseeable, the employee must request the leave no later than 7 days in advance;
- if the need is not foreseeable, the employee must notify the employer as soon as practicable under the particular circumstances of the individual case.

To the extent possible, employees must provide written notice to the employer. If not feasible, employees may request leave orally.

Certificates and/or requests for leave provided by employees must be kept in the employee’s personnel record file and must be maintained for three years in accordance with M.G.L. C.149 §52C. Records and documents relating to medical certifications or medical histories of employees’ family members must be maintained as confidential medical records and kept in separate files from the usual personnel files.

#### **UNLAWFUL ACTS BY EMPLOYERS:**

A violation of the Act occurs when the employer:

- fails to provide the time requested by the eligible employee; or
- fails to restore the employee to the position held by the employee when the leave commenced, or
- fails to restore the employee to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment; or
- discharges or in any manner discriminates against any individual for opposing any practice made unlawful
- by the Act; or
- in any other manner discriminates against any individual because the individual:
- has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to the Act; or
- has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under the Act; or
- has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under the Act.

#### **ENFORCEMENT:**

The Act authorizes the Attorney General to initiate either a criminal action against an employer who violates the Act and/or to seek injunctive relief against such employer. Any employer convicted of a criminal violation of the Act is subject to a \$500 fine.

In addition, any aggrieved employee may institute a civil action for injunctive relief and/or damages against his or her employer. Should the employee prevail, he or she will be entitled to treble damages, costs of the litigation and reasonable attorney's fees.

**TOWN OF OXFORD  
POLICY REGARDING PERSONAL USE OF SOCIAL MEDIA  
BY TOWN EMPLOYEES**

**PURPOSE:**

To establish guidelines for employees of the Town of Oxford who participate in social media networking. It is intended to promote good use and prevent discrediting of the character and integrity of the Town and its employees or officials.

**SCOPE:**

These guidelines apply to all Town employees who participate in any form of personal social networking. The use of personal social networking or media on Town-time or using Town-equipment is also covered by the Town's Electronic Communications Policy. Thus, to the extent employees wish to use such personal social media at work, they must ensure that their activities comply with both this Policy and the Electronic Communications Policy.

**POLICY:**

The Town is aware that employees may maintain or contribute to personal blogs, message boards, conversation pages and other forms of social media (such as Facebook and Twitter) outside of their job function. These postings should not be used to discuss work-related information unless the matter about which they are communicating is a matter of public concern protected by the First Amendment. Employees, however, should understand that the right to free speech is not absolute. They should, therefore, exercise caution with respect to comments they post concerning the Town, its employees or officials.

If employees personally access and/or use external social media platforms, they may not reference the Town or any information that would identify the employee's relationship with the Town or Town Department in which they work in their identity (e.g., username, "handle" or screen name), nor should the employee speak as a representative of the Town. If, however, an employee makes or expresses any comment about Town-business or about the employee's job function or job-related activities because the matter is one of public concern, the employee must disclose his or her relationship with the Town. In doing so, the employee must also state that the comments he/she is making or posting concerning such Town-related business reflects his/her own personal views or opinions and that such comments are neither made on behalf of nor reflect the views of the Town, unless the employee is specifically authorized by the Town to make such comments.

Employees are responsible for acting in a manner that is consistent with the Town's policies. Employees are expected to be courteous, respectful, and thoughtful about how other employees may be affected by postings.

***Postings that harass or threaten any other Town employees or officials, or which disclose confidential information related to the business of the Town or personal information concerning other Town employees or officials violate Town policy and may result in disciplinary action up to and including termination.***

Moreover, postings about other individuals could potentially expose the posting employee to, among other things, personal liability for invasion of privacy, sexual harassment, or discrimination. Employees bear full responsibility for the material they post on personal blogs or other social media. Further, employees who may be required to testify in court as a part of their job should be aware that defense attorneys are increasingly looking for information available on social media and other internet sites to obtain information that can be used at trial to discredit the character and integrity of the prosecution's witnesses. Employees should refrain from posting any comments that might compromise their credibility in court.

For purposes of this policy, a "personal blog" or "social media" includes personal websites, and all forms of on-line community activities such as on-line social networks, message boards, conversation pages, and chat rooms, including, but not limited to, Facebook, MySpace, LinkedIn, Friendster, Twitter, Flickr, and personal blogs.

If you have any questions about the application of these guidelines, please contact the Town Manager or your Department Head.

**This policy was adopted by the Town Manager on February 7, 2012.**

TOWN MANAGER

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Joseph M. Zeneski

**TOWN OF OXFORD  
CONFLICT OF INTREST LAW**

TO: Employees/Boards/Commissions/Committees

FROM: Lori A Kelley, CMC/CMMC, Town Clerk/ Municipal Liaison to the State Ethics Comm.

SUBJECT: Submission of On-Line Certificate for the Conflict of Interest Law

As a municipal employee, you are required by Mass. General Law to **complete items 1 AND 2** below if any of the following is true:

- You hold a **hired, appointed, or elected** position, **paid or unpaid, including boards/committees**
  - You hold a **full-time, part-time, seasonal or intermittent** position
  - You hold an elected or appointed position with an independent municipal or regional agency or district, such as a regional utility or school district.
1. **Attached is the SUMMARY of the Conflict of Interest Law for municipal employees, which is required ANNUALLY (DUE within 30 days). Kindly PRINT & COMPLETE the RECEIPT on the LAST PAGE and return it to this office.**
  2. **ONLINE Conflict of interest law training is required EVERY TWO YEARS (DUE April 6, 2018). Please check your records to determine if you are due to take the online training for 2018.**

To access the online training, go to: [www.muniprogram.state.ma.us](http://www.muniprogram.state.ma.us) Before you begin, please note the following to ensure that you obtain an acceptable completion certificate:

- **DO NOT use the Google Chrome web browser.** Use Internet Explorer, Firefox or Safari. **DO NOT use a mobile device such as a smartphone or tablet.**
- **Turn off the pop-up blocker in your web browser** or you will not be able to print your certificate. If you are able to proceed through the entire program but your certificate does not include your name, position and municipality, you can temporarily disable the pop-up blocker by holding down the "Ctrl" key on your keyboard, and then click the "View Certificate" button on the program.
- **When you have completed the Assessment, enter your full name and position(s) and CHOOSE PRINT CERTIFICATE.** Do not click the Course Credit button.

**Please return the Conflict of Interest Acknowledgment RECEIPT AND Online Ethics CERTIFICATE by one of the following methods:**

**Mail to: Office of the Town Clerk                      Fax to:                      508-987-1804**  
**325 Main St., Oxford, Ma 01540                      Email to:**  
**[Lkelley@town.oxford.ma.us](mailto:Lkelley@town.oxford.ma.us)**

**Please keep a copy for your records so that you will know when you are due to renew your online training. Thank you for your attention to this matter!**

# Summary of the Conflict of Interest Law for Municipal Employees

This summary of the conflict of interest law, General Laws chapter 268A, is intended to help municipal employees understand how that law applies to them. This summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation. Municipal employees can obtain free confidential advice about the conflict of interest law from the Commission's Legal Division at our website, phone number, and address above. Municipal counsel may also provide advice.

The conflict of interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service, as described below. The sections referenced below are sections of G.L. c. 268A.

When the Commission determines that the conflict of interest law has been violated, it can impose a civil penalty of up to \$10,000 (\$25,000 for bribery cases) for each violation. In addition, the Commission can order the violator to repay any economic advantage he gained by the violation, and to make restitution to injured third parties. Violations of the conflict of interest law can also be prosecuted criminally.

## I. Are you a municipal employee for conflict of interest law purposes?

You do not have to be a full-time, paid municipal employee to be considered a municipal employee for conflict of interest purposes. Anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full- and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law. An employee of a private firm can also be a municipal employee, if the private firm has a contract with the city or town and the employee is a "key employee" under the contract, meaning the town has specifically contracted for her services. The law also covers private parties who engage in impermissible dealings with municipal employees, such as offering bribes or illegal gifts. Town meeting members and charter commission members are not municipal employees under the conflict of interest law.

## II. On-the-job restrictions.

**(a) Bribes. Asking for and taking bribes is prohibited. (See Section 2)**

A bribe is anything of value corruptly received by a municipal employee in exchange for the employee being influenced in his official actions. Giving, offering, receiving, or asking for a bribe is illegal. Bribes are more serious than illegal gifts because they involve corrupt intent. In other words, the municipal employee intends to sell his office by agreeing to do or not do some official act, and the giver intends to influence him to do so. Bribes of any value are illegal.

**(b) Gifts and gratuities. Asking for or accepting a gift because of your official position, or because of something you can do or have done in your official position, is prohibited. (See Sections 3, 23(b)(2), and 26)**

Municipal employees may not accept gifts and gratuities valued at \$50 or more given to influence their official actions or because of their official position. Accepting a gift intended to reward past official action or to bring about future official action is illegal, as is giving such gifts. Accepting a gift given to you because of the municipal position you hold is also illegal. Meals, entertainment event tickets, golf, gift baskets, and payment of travel expenses can all be illegal gifts if given in connection with official action or position, as can anything worth \$50 or more. A number of smaller gifts together worth \$50 or more may also violate these sections.

***Example of violation:*** A town administrator accepts reduced rental payments from developers.

***Example of violation:*** A developer offers a ski trip to a school district employee who oversees the developer's work for the school district.

**Regulatory exemptions.** There are situations in which a municipal employee's receipt of a gift does not present a genuine risk of a conflict of interest, and may in fact advance the public interest. The Commission has created exemptions permitting giving and receiving gifts in these situations. One commonly used exemption permits municipal employees to accept payment of travel-related expenses when doing so advances a public purpose. Another commonly used exemption permits municipal employees to accept payment of costs involved in attendance at educational and training programs. Other exemptions are listed on the Commission's website.

***Example where there is no violation:*** A fire truck manufacturer offers to pay the travel expenses of a fire chief to a trade show where the chief can examine various kinds of fire-fighting equipment that the town may purchase. The chief fills out a disclosure form and obtains prior approval from his appointing authority.



*Example where there is no violation:* A town treasurer attends a two-day annual school featuring multiple substantive seminars on issues relevant to treasurers. The annual school is paid for in part by banks that do business with town treasurers. The treasurer is only required to make a disclosure if one of the sponsoring banks has official business before her in the six months before or after the annual school.

**(c) Misuse of position. Using your official position to get something you are not entitled to, or to get someone else something they are not entitled to, is prohibited. Causing someone else to do these things is also prohibited. (See Sections 23(b)(2) and 26)**

A municipal employee may not use her official position to get something worth \$50 or more that would not be properly available to other similarly situated individuals. Similarly, a municipal employee may not use her official position to get something worth \$50 or more for someone else that would not be properly available to other similarly situated individuals. Causing someone else to do these things is also prohibited.

*Example of violation:* A full-time town employee writes a novel on work time, using her office computer, and directing her secretary to proofread the draft.

*Example of violation:* A city councilor directs subordinates to drive the councilor's wife to and from the grocery store.

*Example of violation:* A mayor avoids a speeding ticket by asking the police officer who stops him, "Do you know who I am?" and showing his municipal I.D.

**(d) Self-dealing and nepotism. Participating as a municipal employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited. (See Section 19)**

A municipal employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest. He also may not participate in any particular matter in which a prospective employer, or a business organization of which he is a director, officer, trustee, or employee has a financial interest. Participation includes discussing as well as voting on a matter, and delegating a matter to someone else. A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out. If you, your immediate family, your business, or your employer have or has a

financial interest in a matter, you may not participate. The financial interest must be direct and immediate or reasonably foreseeable to create a conflict. Financial interests which are remote, speculative or not sufficiently identifiable do not create conflicts.

**Example of violation:** A school committee member's wife is a teacher in the town's public schools. The school committee member votes on the budget line item for teachers' salaries.

**Example of violation:** A member of a town affordable housing committee is also the director of a non-profit housing development corporation. The non-profit makes an application to the committee, and the member/director participates in the discussion.

**Example:** A planning board member lives next door to property where a developer plans to construct a new building. Because the planning board member owns abutting property, he is presumed to have a financial interest in the matter. He cannot participate unless he provides the State Ethics Commission with an opinion from a qualified independent appraiser that the new construction will not affect his financial interest.

In many cases, where not otherwise required to participate, a municipal employee may comply with the law by simply not participating in the particular matter in which she has a financial interest. She need not give a reason for not participating.

There are several exemptions to this section of the law. An appointed municipal employee may file a written disclosure about the financial interest with his appointing authority, and seek permission to participate notwithstanding the conflict. The appointing authority may grant written permission if she determines that the financial interest in question is not so substantial that it is likely to affect the integrity of his services to the municipality. Participating without disclosing the financial interest is a violation. Elected employees cannot use the disclosure procedure because they have no appointing authority.

**Example where there is no violation:** An appointed member of the town zoning advisory committee, which will review and recommend changes to the town's by-laws with regard to a commercial district, is a partner at a company that owns commercial property in the district. Prior to participating in any committee discussions, the member files a disclosure with the zoning board of appeals that appointed him to his position, and that board gives him a written determination authorizing his participation, despite his company's financial interest. There is no violation.

There is also an exemption for both appointed and elected employees where the employee's task is to address a matter of general policy and the employee's financial interest is shared with a substantial portion (generally 10% or more) of the town's population, such as, for instance, a financial interest in real estate tax rates or municipal utility rates.

**Regulatory exemptions.** In addition to the statutory exemptions just mentioned, the Commission has created several regulatory exemptions permitting municipal employees to participate in particular matters notwithstanding the presence of a financial interest in certain very specific situations when permitting them to do so advances a public purpose. There is an exemption permitting school committee members to participate in setting school fees that will affect their own children if they make a prior written disclosure. There is an exemption permitting town clerks to perform election-related functions even when they, or their immediate family members, are on the ballot, because clerks' election-related functions are extensively regulated by other laws. There is also an exemption permitting a person serving as a member of a municipal board pursuant to a legal requirement that the board have members with a specified affiliation to participate fully in determinations of general policy by the board, even if the entity with which he is affiliated has a financial interest in the matter. Other exemptions are listed in the Commission's regulations, available on the Commission's website.

**Example where there is no violation:** A municipal Shellfish Advisory Board has been created to provide advice to the Board of Selectmen on policy issues related to shellfishing. The Advisory Board is required to have members who are currently commercial fishermen. A board member who is a commercial fisherman may participate in determinations of general policy in which he has a financial interest common to all commercial fishermen, but may not participate in determinations in which he alone has a financial interest, such as the extension of his own individual permits or leases.

**(e) False claims. Presenting a false claim to your employer for a payment or benefit is prohibited, and causing someone else to do so is also prohibited. (See Sections 23(b)(4) and 26)**

A municipal employee may not present a false or fraudulent claim to his employer for any payment or benefit worth \$50 or more, or cause another person to do so.

**Example of violation:** A public works director directs his secretary to fill out time sheets to show him as present at work on days when he was skiing.

**(f) Appearance of conflict. Acting in a manner that would make a reasonable person think you can be improperly influenced is prohibited. (See Section 23(b)(3))**

A municipal employee may not act in a manner that would cause a reasonable person to think that she would show favor toward someone or that she can be improperly influenced. Section 23(b)(3) requires a municipal employee to consider whether her relationships and affiliations could prevent her from acting fairly and objectively when she performs her duties for a city or town. If she cannot be fair and objective because of a relationship or affiliation, she should not perform her duties. However, a municipal

employee, whether elected or appointed, can avoid violating this provision by making a public disclosure of the facts. An appointed employee must make the disclosure in writing to his appointing official.

***Example where there is no violation:*** A developer who is the cousin of the chair of the conservation commission has filed an application with the commission. A reasonable person could conclude that the chair might favor her cousin. The chair files a written disclosure with her appointing authority explaining her relationship with her cousin prior to the meeting at which the application will be considered. There is no violation of Sec. 23(b)(3).

**(g) Confidential information. Improperly disclosing or personally using confidential information obtained through your job is prohibited. (See Section 23(c))**

Municipal employees may not improperly disclose confidential information, or make personal use of non-public information they acquired in the course of their official duties to further their personal interests.

**III. After-hours restrictions.**

**(a) Taking a second paid job that conflicts with the duties of your municipal job is prohibited. (See Section 23(b)(1))**

A municipal employee may not accept other paid employment if the responsibilities of the second job are incompatible with his or her municipal job.

***Example:*** A police officer may not work as a paid private security guard in the town where he serves because the demands of his private employment would conflict with his duties as a police officer.

**(b) Divided loyalties. Receiving pay from anyone other than the city or town to work on a matter involving the city or town is prohibited. Acting as agent or attorney for anyone other than the city or town in a matter involving the city or town is also prohibited whether or not you are paid. (See Sec. 17)**

Because cities and towns are entitled to the undivided loyalty of their employees, a municipal employee may not be paid by other people and organizations in relation to a matter if the city or town has an interest in the matter. In addition, a municipal employee may not act on behalf of other people and organizations or act as an attorney for other people and organizations in which the town has an interest. Acting as agent includes

contacting the municipality in person, by phone, or in writing; acting as a liaison; providing documents to the city or town; and serving as spokesman.

A municipal employee may always represent his own personal interests, even before his own municipal agency or board, on the same terms and conditions that other similarly situated members of the public would be allowed to do so. A municipal employee may also apply for building and related permits on behalf of someone else and be paid for doing so, unless he works for the permitting agency, or an agency which regulates the permitting agency.

**Example of violation:** A full-time health agent submits a septic system plan that she has prepared for a private client to the town's board of health.

**Example of violation:** A planning board member represents a private client before the board of selectmen on a request that town meeting consider rezoning the client's property.

While many municipal employees earn their livelihood in municipal jobs, some municipal employees volunteer their time to provide services to the town or receive small stipends. Others, such as a private attorney who provides legal services to a town as needed, may serve in a position in which they may have other personal or private employment during normal working hours. In recognition of the need not to unduly restrict the ability of town volunteers and part-time employees to earn a living, the law is less restrictive for "special" municipal employees than for other municipal employees.

The status of "special" municipal employee has to be assigned to a municipal position by vote of the board of selectmen, city council, or similar body. A position is eligible to be designated as "special" if it is unpaid, or if it is part-time and the employee is allowed to have another job during normal working hours, or if the employee was not paid for working more than 800 hours during the preceding 365 days. It is the position that is designated as "special" and not the person or persons holding the position. Selectmen in towns of 10,000 or fewer are automatically "special"; selectman in larger towns cannot be "specials."

If a municipal position has been designated as "special," an employee holding that position may be paid by others, act on behalf of others, and act as attorney for others with respect to matters before municipal boards other than his own, provided that he has not officially participated in the matter, and the matter is not now, and has not within the past year been, under his official responsibility.

**Example:** A school committee member who has been designated as a special municipal employee appears before the board of health on behalf of a client of his private law practice, on a matter that he has not participated in or had responsibility for as a school committee member. There is no conflict. However, he may not appear before the school

committee, or the school department, on behalf of a client because he has official responsibility for any matter that comes before the school committee. This is still the case even if he has recused himself from participating in the matter in his official capacity.

*Example:* A member who sits as an alternate on the conservation commission is a special municipal employee. Under town by-laws, he only has official responsibility for matters assigned to him. He may represent a resident who wants to file an application with the conservation commission as long as the matter is not assigned to him and he will not participate in it.

**(c) Inside track. Being paid by your city or town, directly or indirectly, under some second arrangement in addition to your job is prohibited, unless an exemption applies. (See Section 20)**

A municipal employee generally may not have a financial interest in a municipal contract, including a second municipal job. A municipal employee is also generally prohibited from having an indirect financial interest in a contract that the city or town has with someone else. This provision is intended to prevent municipal employees from having an “inside track” to further financial opportunities.

*Example of violation:* Legal counsel to the town housing authority becomes the acting executive director of the authority, and is paid in both positions.

*Example of violation:* A selectman buys a surplus truck from the town DPW.

*Example of violation:* A full-time secretary for the board of health wants to have a second paid job working part-time for the town library. She will violate Section 20 unless she can meet the requirements of an exemption.

*Example of violation:* A city councilor wants to work for a non-profit that receives funding under a contract with her city. Unless she can satisfy the requirements of an exemption under Section 20, she cannot take the job.

There are numerous exemptions. A municipal employee may hold multiple unpaid or elected positions. Some exemptions apply only to special municipal employees. Specific exemptions may cover serving as an unpaid volunteer in a second town position, housing-related benefits, public safety positions, certain elected positions, small towns, and other specific situations. Please call the Ethics Commission’s Legal Division for advice about a specific situation.

#### IV. After you leave municipal employment. (See Section 18)

##### **(a) Forever ban. After you leave your municipal job, you may never work for anyone other than the municipality on a matter that you worked on as a municipal employee.**

If you participated in a matter as a municipal employee, you cannot ever be paid to work on that same matter for anyone other than the municipality, nor may you act for someone else, whether paid or not. The purpose of this restriction is to bar former employees from selling to private interests their familiarity with the facts of particular matters that are of continuing concern to their former municipal employer. The restriction does not prohibit former municipal employees from using the expertise acquired in government service in their subsequent private activities.

*Example of violation:* A former school department employee works for a contractor under a contract that she helped to draft and oversee for the school department.

##### **(b) One year cooling-off period. For one year after you leave your municipal job you may not participate in any matter over which you had official responsibility during your last two years of public service.**

Former municipal employees are barred for one year after they leave municipal employment from personally appearing before any agency of the municipality in connection with matters that were under their authority in their prior municipal positions during the two years before they left.

*Example:* An assistant town manager negotiates a three-year contract with a company. The town manager who supervised the assistant, and had official responsibility for the contract but did not participate in negotiating it, leaves her job to work for the company to which the contract was awarded. The former manager may not call or write the town in connection with the company's work on the contract for one year after leaving the town.

A former municipal employee who participated as such in general legislation on expanded gaming and related matters may not become an officer or employee of, or acquire a financial interest in, an applicant for a gaming license, or a gaming licensee, for one year after his public employment ceases.

##### **(c) Partners. Your partners will be subject to restrictions while you serve as a municipal employee and after your municipal service ends.**



Partners of municipal employees and former municipal employees are also subject to restrictions under the conflict of interest law. If a municipal employee participated in a matter, or if he has official responsibility for a matter, then his partner may not act on behalf of anyone other than the municipality or provide services as an attorney to anyone but the city or town in relation to the matter.

**Example:** While serving on a city's historic district commission, an architect reviewed an application to get landmark status for a building. His partners at his architecture firm may not prepare and sign plans for the owner of the building or otherwise act on the owner's behalf in relation to the application for landmark status. In addition, because the architect has official responsibility as a commissioner for every matter that comes before the commission, his partners may not communicate with the commission or otherwise act on behalf of any client on any matter that comes before the commission during the time that the architect serves on the commission.

**Example:** A former town counsel joins a law firm as a partner. Because she litigated a lawsuit for the town, her new partners cannot represent any private clients in the lawsuit for one year after her job with the town ended.

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This summary is not intended to be legal advice and, because it is a summary, it does not mention every provision of the conflict law that may apply in a particular situation. Our website, <http://www.mass.gov/ethics>, contains further information about how the law applies in many situations. You can also contact the Commission's Legal Division via our website, by telephone, or by letter. Our contact information is at the top of this document.

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