

8. COMPLAINTS, GRIEVANCES AND DISCIPLINE**8.28 COMPLAINTS PROCEDURE - DISCRIMINATION, HARASSMENT, HOSTILE WORK ENVIRONMENT AND RETALIATION IN THE WORKPLACE**

This policy applies to all Town employees and all employees of the Greenwich Board of Education. The Town Appointing Authorities, Elected Officials and Administrators, Department Heads and all employees are responsible for creating a productive work environment in which matters of discrimination, offensive conduct, harassment, hostile work environment and retaliation is completely out of place. The Town is committed to providing an immediate and appropriate means of redress and corrective action in response to any confirmed violation of workplace laws and assuring that no reprisals are taken against those who complain or against corroborating witnesses. The Town is committed to addressing each complaint which shall be undertaken through conciliation and/or full investigation as appropriate depending on the nature of the case. The Director of Human Resources or his/her designee is responsible for monitoring the operation of this policy, providing support and investigative direction to Town Appointing Authorities and Town Department Heads and managerial staff members as needed. In addition, the Department of Human Resources will assure employees are informed on the use and procedures included in this policy for all members of the workforce.

NO TOLERANCE POLICY

It is the policy of the Town of Greenwich that there shall be fair treatment in workplace matters. Unlawful discrimination, harassment, hostile work environment and retaliation shall not be tolerated. The Town prohibits all unlawful discrimination/harassment/hostile work environment/retaliation in the workplace to the full extent of state and federal law. Unlawful discrimination and retaliation are considered serious misconduct and, where there is a finding of such misconduct; employees shall be subject to discipline up to, and including, termination.

No reprisals of any kind by an employee or a member of any management level or the organization will be permitted against an employee because that employee has asserted a complaint or against any witness because that individual has reported or has assisted in any way in the investigation of a complaint of unlawful discrimination/harassment/ hostile work environment/retaliation.

COMPLAINT PROCEDURES

It is the policy of the Town of Greenwich that complaints concerning unlawful discrimination/harassment/ hostile work environment/retaliation in the workplace must be brought to the attention of the Town. This is required to be done in the following ways:

1. First, if the employee believes that s/he is subject to unlawful discrimination/harassment/ hostile work environment/retaliation in the workplace, the employee must promptly notify the Department Head, Director of Human Resources, or Assistant Director of Human Resources concerning such conduct. Note that if an employee fails to give the notification required by this paragraph, or to give notification in a timely fashion, the Town's rights are reserved with respect to the effect of that failure in connection with any action purported to

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be asserted against the Town concerning alleged unlawful discrimination/harassment/ hostile work environment/retaliation in the workplace.

2. In addition, if the employee is represented by a collective bargaining unit (union), the employee is encouraged to notify his or her collective bargaining representative of the occurrence promptly. In certain cases, depending on the nature of the alleged unlawful discrimination/harassment/hostile work environment/retaliation in the workplace, the collective bargaining agreement will allow for a grievance to be filed. If this is so, the employee may, through the employee's collective bargaining representative, file a grievance concerning such alleged conduct. Note that if an employee, through his or her collective bargaining unit, fails to file a grievance in this situation in accordance with the collective bargaining agreement, the Town's rights are reserved with respect to the effect of that failure in connection with any other action purported to be asserted against the Town concerning alleged unlawful discrimination/harassment/hostile work environment/retaliation in the workplace.

OTHER REPORTING REQUIREMENTS

All employees, including supervisors, managers or directors and other employees, who become aware of possible mistreatment or harassment of an employee, either as a result of having received a complaint directly from the employee or from any other reliable source of information, or from his/her personal observations, must report the situation to the appropriate Department Head, or the Director of Human Resources or his/her designee at the time that they become aware of the matter or incident.

INVESTIGATORY PROCESS AND EXPECTATIONS

The investigatory and hearing process as to a grievance filed asserting unlawful discrimination/harassment/hostile work environment/retaliation in the workplace will be governed by the collective bargaining agreement. The following process shall be undertaken by the Human Resources Department with respect to notifications/complaints of unlawful discrimination/harassment/hostile work environment/retaliation in the workplace.

The Director of Human Resources and/or Assistant Director of Human Resources will work to undertake conciliation efforts to find an equitable solution if possible and/or investigate complaints of discrimination/harassment/hostile work environment/retaliation in the workplace as appropriate. Every effort shall be made to resolve the difficulty at the lowest level practicable and some cases will be resolved without the need for full investigation.

The confidentiality of information disclosed during the course of investigations or informal resolution efforts will be respected to the extent practical and/or as permitted by law. Information about the complaint and the incidents giving rise to the complaint will be revealed only as investigatory processes require.

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Information about the complaint is shared only with those individuals who “need to know” in order to effectively investigate and/or resolve the complaint. Parties with a need to know may include witnesses or department heads that need to be informed of the complaint in order to cooperate with an investigation or to implement resolution. These parties will be advised that they should keep all information confidential in the best interest of all parties.

Employees are required to identify themselves and any alleged wrongdoers. This is required, mindful that the law and Town policy prohibit retaliation against employees who complain about discrimination/harassment/hostile work environment/retaliation in the workplace, and/or against witnesses. Without such identification information, a full and fair investigation of misconduct cannot be undertaken.

When an employee provides the required information, it is the policy of the Town of Greenwich to investigate complaints of discrimination/harassment/hostile work environment/retaliation in the workplace to the full extent appropriate in cases where conciliation efforts have failed. This should be done reasonably promptly and thoroughly.

An employee may withdraw a complaint referred to the Director of Human Resources or Assistant Director of Human Resources before investigation is undertaken in two situations: 1) If conciliation efforts have been successful; 2) The employee does not wish to proceed for some other reason as long as the employee certifies in writing that the withdrawal is voluntary and he or she has not been the subject of retaliation or intimidation. Absent such a certification, no withdrawal shall be permitted.

Required dismissal: If conciliation or investigation is not possible because the employee does not wish to provide names to the investigator or does not cooperate as required as set forth below, the complaint shall be dismissed and the matter will be closed without any further action.

If the employee’s bargaining representative files a grievance in behalf of the employee pursuant to the terms of the employee’s collective bargaining agreement in addition to a complaint to be investigated by the Human Resources Department, the Director of Human Resources or Assistant Director of Human Resources shall defer processing the complaint until the grievance has been fully adjudicated pursuant to the terms of the collective bargaining agreement.

COOPERATION IN CONCILIATION EFFORTS AND INVESTIGATIONS

All employees are expected to comply fully with all Town-related investigatory matters and with conciliation efforts concerning allegations of discrimination/harassment/hostile work environment/retaliation in the workplace. The duty to cooperate applies in all contexts: When a complaint has been made to the Department Head, Director of Human Resources, or Assistant Director of Human Resources or and when a grievance has been filed by a collective bargaining unit (union) on behalf of an employee as to such allegations.

The duty of cooperation means a duty to speak truthfully and make a good-faith effort to provide the information requested in a timely, ethical and honest fashion, providing all details, documentation

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and information requested during the investigatory process to the best of the employee's ability. The duty to cooperate applies to the employee complaining of mistreatment and also to any witnesses requested to participate in the investigation. Employees shall be informed that a meeting or request is part of an "investigation" or "conciliation efforts" or a "grievance". Failure to cooperate in an investigation in good faith shall be grounds for progressive discipline up to and including termination.

POTENTIAL DISCIPLINARY CONSEQUENCES

If a Town's investigation determines that an employee has engaged in unlawful discrimination/harassment/hostile work environment/retaliation in the workplace, appropriate disciplinary action will be taken against the offending employee, up to and including termination. This applies in any context where an appropriate investigation has been undertaken by any Town authority.

If, after investigating any complaint of unlawful discrimination/harassment/hostile work environment/retaliation in the workplace, the Town determines that the complaint was not made in good faith or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the individual who filed the complaint/notification or who gave the false information, up to and including termination.

Related Links:

- ***Federal Laws relating to discrimination or retaliation:***
 - Equal Employment Opportunity Commission Complaint Procedure: <http://www.eeoc.gov/employees>
 - Uniformed Services Employment and Reemployment Rights Act (USERRA): <http://www.dol.gov/elaws/vets/userra/mainmenu.asp>
 - National Labor Relations Board: <http://www.nlr.gov>
 - Worker's Compensation: <http://www.dol.gov/owcp/>
 - Family Medical Leave Act: <http://www.dol.gov/whd/fmla/index.htm>
- ***State Laws relating to discrimination or retaliation:***
 - Connecticut Commission on Human Rights and Opportunities (CHRO) <http://www.ct.gov/chro/cwp/view.asp?a=2523&Q=315854>
 - CHRO Employment Discrimination Complaint Procedures <http://www.ct.gov/chro/cwp/view.asp?a=2524&Q=315892>
 - CHRO Whistleblower Retaliation Complaints <http://www.ct.gov/chro/cwp/view.asp?a=2528&Q=316246&chroPNavCtr=#45688>
 - Connecticut Discriminatory Employment Practices Act (CONN. GEN. STAT. § 46a-60) http://search.cga.state.ct.us/dtsearch_pub_statutes.html

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- Connecticut Department of Labor Equal Opportunity Policy Statement:
<http://www.ctdol.state.ct.us/gendocs/eoo.htm>
- Municipal Employee Relations Act (MERA) (CONN. GEN. STAT. § 7-467, et seq.):
<http://www.ctdol.state.ct.us/csblr/mera7-467.htm>
- FMLA – State and Federal laws <http://www.ctdol.state.ct.us/wgwkstnd/fmlaanno.pdf>
- State of Connecticut Sec. 31-51q. Liability of employer for discipline or termination of employee on account of employee's exercise of certain constitutional rights
https://www.cqa.ct.gov/current/pub/chap_557.htm#sec_31-51q
- ***Non-discriminatory Complaints***
 - Violence in the Workplace
<http://www.osha.gov/SLTC/workplaceviolence/index.html>
- ***Related Town Policies:***
 - 8.26 Violence in the Workplace
 - 8.7 Ethics Policy