

TOWN OF OAK BLUFFS MASSACHUSETTS

PERSONNEL POLICIES AND PROCEDURES



*Approved and Adopted by the Oak Bluffs Board of Selectmen,
July 23rd 2013
Amended May, 2018, October 2019*

*These policies and procedures may be amended by majority vote of
the Personnel Board*

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PERSONNEL POLICIES AND PROCEDURES

PURPOSE

It is the purpose of these policies and procedures to maintain an equitable personnel management system in the Town of Oak Bluffs. The policies and procedures for personnel administration set forth herein have as their purpose, to promote the efficiency and economy of government; to promote the morale and wellbeing of Town employees; and ensure compliance with all State and Federal laws governing Personnel management.

A. ADOPTION OF PERSONNEL POLICIES AND PROCEDURES

These policies and procedures will become effective thirty days after their approval by the Board of Selectmen and shall remain in effect until revised in the same manner.

B. APPLICATION

These regulations and procedures apply to all employees, except if the terms of a collective bargaining agreement, State law or Town's by-laws provide to the contrary, then the terms of the collective bargaining agreement, State law or Town's by-law shall prevail.

These policies shall serve as a guide and resource to the administration of a personnel system of the Town of Oak Bluffs. These policies are not all inclusive; final discretion as to interpretation and as the appropriate course of action concerning a particular personnel matter shall vest with the Board of Selectmen. Failure to comply with these regulations will be cause for appropriate corrective action.

C. AMENDMENTS

All or part of these policies and procedures may be amended by action of the Board of Selectmen through the following procedure:

1. An employee or Department Head will present, in writing, the proposed change, or amendment to the Town Administrator who will then call a meeting of the Personnel Advisory Board.
2. The Personnel Advisory Board will review any proposed change or amendment and recommend action to the Board of Selectmen.
3. A notice of the proposed amendments shall be distributed to the Department Heads and other appointing authorities by the Board of Selectmen to be posted on departmental bulletin boards. The notice shall contain the proposed amendments and the date, place and time of the Board of Selectmen meeting at which they will be addressed.
4. The Board of Selectmen may adopt them with or without amendment and shall become effective upon approval in accordance with this policy.

II. RESPONSIBILITY OF EMPLOYEES

A. DEPARTMENT HEADS

1. Department Heads, with the approval of the Town Administrator and the Board of Selectmen, shall have the responsibility to select, retain, transfer and promote personnel in accordance with established Town Policies. They are expected to effectively supervise their employees; evaluate performance of their subordinates; to notify the Town Administrator of changes of duties of their employees in order that the classification plan will be maintained; and to recommend salary increases that will be acted upon by the Town Administrator and the Board of Selectmen.
2. All recommendations for appointments must be verified with the Town Administrator's Office for compliance with established procedures and with Equal/ Employment Opportunity/ Affirmative Action guidelines before any candidate may be offered a position.
3. Department Heads may recommend to the Personnel Advisory Board, the Town Administrator or the Board of Selectmen, any desirable changes in personnel policies and procedures to improve the Personnel management system.

B. EMPLOYEES

It shall be the responsibilities of all employees to acquaint themselves thoroughly with the material in these personnel policies and any subsequent revisions. Employees are also encouraged to submit suggestions for changes in personnel policies and procedures for improvement of the personnel administration.

IV. GENERAL EMPLOYMENT PROVISIONS

A. CODE OF CONDUCT

PURPOSE AND SCOPE

The purpose of this policy is to indicate conduct expected by employees and officials of the Town of Oak Bluffs when conducting business with other employees, customers, vendors, and visitors, who interact with the Town, either on a daily or more infrequent basis.

This policy does not replace applicable law but instead applies in addition to applicable law. In the event this policy conflicts in any way with laws governing employee conduct, the law will apply over this policy, to the extent that it is stricter. Applicable laws that are implicated by this policy which outline unacceptable or unethical conduct in the workplace include but not limited to: Massachusetts General Laws, Chapter 268A (commonly referred to as the States Ethics Law or Conflict of Interest Law), Civil Rights, anti-discrimination and anti-bullying.

Nothing in this policy limits or replaces other Town policies that address employee conduct, such as Policies against Sexual Harassment; Discrimination and Harassment; Workplace Violence, the Town's Alcohol and Drug Policy, and other policies applicable to employee conduct.

This policy applies to all paid, elected and appointed employees, officers or special municipal employees in Town Service. Employees whose positions are covered by collective bargaining agreement are subject only to those portions of the policy that are not separately regulated by collective bargaining agreement.

POLICY

Town employees are expected to act honestly, conscientiously, reasonably and in good faith in all Town dealings, comply with all by-laws/ regulations that govern the Town, maintain an ethical and professional work environment and comply with all Town policies.

Town employees and officials are required to consistently treat fellow employees, customers, vendors and visitors with respect, dignity, honesty, fairness and integrity while on the Town's premises and while representing the Town.

Employees have an obligation to be present at work as required and to be absent from the workplace only with proper authorization; to respect the privileges of sick leave, leave of absence, and other compensated time;

To carry out their duties in an efficient and competent manner in co-operation with co-workers and supervisors;

To maintain all qualifications necessary for the performance of their duties legally and efficiently.

To comply with reasonable employer instructions and perform tasks as assigned;

To provide residents, taxpayers, staff, elected officials and volunteers with responsive, consistent and effective public services;

To respect the privacy of individuals and use confidential information only for the purposes for which it was intended;

To be properly attired for the performance of their duties; all employees are expected to dress and groom in accordance with accepted professional business standards;

To maintain a clean and orderly work environment, including desks and office walls in order to provide a safe and pleasant workplace for all employees;

To use Town property properly and only when authorized;

To refrain from possessing or taking illegal drugs or alcohol while on the job.

Failure to behave in a manner consistent with the outlined standards of conduct may result in disciplinary action being initiated against the offending employee. The Town shall utilize a fair and equitable process in reviewing an employee's alleged violation and shall discipline the employee if necessary in a manner appropriate given the alleged violation and consistent with the Town's Progressive Discipline Policy if applicable.

Violations of the Town's Code of Conduct policy include but not limited to the following:

- Harsh language, rudeness, insubordination or any form disrespectful conduct toward residents, members of the public or other employees;
- Tardiness or excessive absenteeism; failure to notify supervisor in a timely manner if unable to work as scheduled; reporting to work improperly prepared to perform duties;
- Being under the influence of alcohol or controlled substances at work;
- Failure to perform duties satisfactorily;

- Fighting or disorderly conduct or physically aggressive behaviors and gestures that would place a reasonable person in fear;
- Bullying or harassing behaviors such as emails, and/or gestures that a reasonable person would find intimidating, humiliating, offensive;
- Carrying firearms or other deadly weapons while at work on Town premises (other than authorized Police personnel);
- Failure to comply with health and safety regulations;
- Falsely reporting illness or injury;
- Failure to report injury, accident, or unsafe conditions immediately to a supervisor;
- Making a false report related to employment, including during the course of an investigation;
- Damaging the Town's reputation and the public's trust through unbecoming conduct, including criminal convictions, during work or non-work hours;
- Engaging in business other than his/her regular duties during working hours; this regulation specifically includes such activities as solicitation of fellow employees, lending of money for profit, distribution of non-work related literature or any other similar activity;
- Use of Town's physical properties, record information or position for private advantage or personal gain;
- Asking or requiring another individual to act unethically or violate the Town's Code of Conduct Policy or the law;
- Giving preferential treatment to any citizen;
- Using one's official position to harass or intimidate any person or entity;
- Making work-related decisions contrary to Department or Town policy
- Disparaging or misrepresenting the Town or any Town employee or official;
- Forgery, alteration, or falsification of any document;
- Theft or attempted theft of Town property or funds;
- Misappropriation of funds or negligent handling of public funds;
- Incurring a liability or expense in the name of the Town without prior authorization;
- Abuse, misuse, destruction, negligent use of Town equipment, facilities, supplies or records;
- Failure to report defective condition of Town equipment or property;
- Unauthorized use of Town of Town equipment, facilities, supplies, record, or funds;
- Failure to protect security of confidential Town information;
- Failure to release information as required by Public Records Law;
- Failure to comply with Town policies, federal, state and local laws and regulations during work hours.

PROCEDURES/ INVESTIGATIONS

A violation of any aspect of this policy can damage the integrity and harm the reputation of the Town of Oak Bluffs and all employees and Town Officials, and may additionally place the employee in violation of Massachusetts law. The Town is fully committed to reviewing and/or investigating, as necessary, all reported incidents. Employees who become aware of inappropriate conduct should report it to their Department Head, Human Resources Administrator or Town Administrator.

When management becomes aware of an incident, they shall document the incident and report to their supervisor. A decision to deal administratively with the employee and/or have the employee consult with the EAP shall be made as promptly as possible by the Town Administrator or his/her designee, and management should continue an on-going review.

If it is determined that Code of Conduct violation of this policy has occurred, the appropriate action will depend on the following factors:

- a) the severity, frequency and pervasiveness of the conduct;
- b) prior complaints made by the complainant;
- c) prior complaints made against the respondent; and
- d) the quality of the evidence (e.g., first-hand knowledge, credible corroboration).

If the investigation is inconclusive or if it is determined that there has been no violation of policy but potentially problematic conduct may have occurred, appropriate preventive action may be recommended to the employee.

Employees may have separate reporting requirements under the Massachusetts Ethics Law, which are in addition to those described in this policy. Employees must be aware of these reporting requirements, and when and under what circumstances Massachusetts State Ethics Law required employees to make such Disclosures. The Human Resources Administrator is available for any questions if employees are concerned that they may be in violation of State Ethics Law.

- Revised - Personnel Board 12/13/16

B. EQUAL EMPLOYMENT OPPORTUNITY

The Town of Oak Bluffs is committed to a policy of Affirmative Action in providing equal employment opportunities to all town employees and applicants for employment. This policy has been established to ensure the Town's personnel practices against discrimination of all types and to comply with the requirements of Federal Executive Order 11246 as amended and State Executive Order No.74 as amended and all other federal/ state laws governing equal opportunity in employment. In meeting this commitment, the Board of Selectmen, on behalf of the Town, will see that all town offices and departments under its direction conform to the following procedures:

Recruit, hire, train, and promote for all positions without regard to the legally defined factors of race, color, sex, age, religion, national origin, sexual orientation or handicap and base these actions on ability to perform duties and responsibilities of the position(s); and administer all other personnel practices such as compensation, benefits, transfers, layoffs, rehiring, and discipline without regard to the legally defined factors of race, color, sex, age, religion, national origin, sexual orientation or handicap, and see that all promotions are made in agreement with the objective of equal employment.

C. AMERICANS WITH DISABILITY ACT

Pursuant to the requirements of the US Americans with Disabilities Act of 1990 and 28 CFR Part 35, the Town of Oak Bluffs advises applicants, participants, and the public that it does not discriminate on the basis of disability in access to, or employment in, its programs, services and/or activities.

Accordingly, the Town of Oak Bluffs will provide reasonable accommodation:

1. To ensure equal employment opportunity in the application process;
2. To enable a qualified individual with a disability to perform the essential functions of the job;
3. To enable an employee with a disability to enjoy equal benefits and privileges of employment;

4. The Town need not provide reasonable accommodation for an individual who is otherwise not qualified for the position;
5. Make reasonable accommodations in policies, practices, or procedures when necessary to avoid discrimination based on disability; unless a fundamental alteration in a local government program would result;
6. Operate its programs so that when viewed in their entirety, they are readily accessible to and usable by individuals with disabilities.

The Town of Oak Bluffs has appointed an ADA coordinator to coordinate efforts to comply with these requirements. Inquiries, request, or complaints should be directed to the:

Assistant Town Administrator's Office, Tel: 508 693 3554 Ext 149

If a person brings a complaint to the ADA coordinator and the situation has not been resolved, he/she may then bring the matter to:

Town Administrator, 56 School St, Oak Bluffs, Ma 02557, 508 693 3554 ext:113
Additional Information may be obtained from:

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section - NYA
Washington, D.C. 20530
(202) 514 0301

D. HARASSMENT AND NON-DISCRIMINATION POLICY

HARASSMENT

Harassment encompasses all forms, whether sexual, religious or otherwise motivated. The Town of Oak Bluffs will not condone any behavior that promotes an intimidating or hostile working atmosphere for any of its employees. The inappropriate conduct of one employee should never have the purpose or effect of interfering with another employee's work performance or of creating an intimidating, hostile, or offensive work environment.

The following definitions of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal harassment includes comments that are offensive or unwelcome regarding a person's nationality, origin, race, color, religion, gender, sexual orientation, age, body, disability or appearance, including epithets, slurs and negative stereotyping.
- Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, sexual identity, marital or other protected status.

DISCRIMINATION

No employee shall be discriminated against in training, job assignment, promotions, transfers, layoffs or discharge because of race, religion, creed, color, national origin, sex, sexual orientation, age or handicap, that does not affect the employee's ability to perform the essential functions of the job.

Discrimination of this kind may also be strictly prohibited by a variety of federal, state and local laws, including Title VII of the Civil Rights Act 1964, the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990. This policy is intended to comply with the prohibitions stated in these anti-discrimination laws.

The employees of the Town of Oak Bluffs should accept individuals and promote teamwork and cooperation rather than polarization and exclusion. Consequently, the Town upholds a strict code of conduct regarding harassment and discrimination and will take appropriate action against offenders.

Any behavior considered harassment or discrimination is a serious offense and will result in severe disciplinary action against both the offender and any Department Head that fails to take appropriate action to stop such activity when it is or should be known to him/ her.

The Department Head is responsible for all offensive conduct of which he/ she has knowledge either from personal observation or as a result of an employee coming forward; furthermore the Town of Oak Bluffs may be liable if immediate corrective action is not taken once the transgression is known. This includes the conducts of employees, vendors and the public. Department Heads should immediately report such incidents to the Human Resources Administrator of Town Administrator.

RETALIATION

No retaliatory action will be taken against those persons who file complaints of discrimination or harassment on the basis of race, sex, color, disability, religion, national origin, sexual orientation, or age or against individuals who cooperate in the investigation or serves as investigator of such a complaint.

Retaliation or attempted retaliation in response to lodging a complaint or invoking the complaint process is a violation of this policy. Any person who is found to have violated this aspect of the policy will be subject to disciplinary action up to and including termination of employment.

COMPLAINT PROCEDURES

The complaint procedure set forth in this manual is available for employees who wish to report harassment/ discrimination or retaliation, and as such, an employee may skip any step of the procedure and bring such a report/ complaint to the Town Administrator or other designated EEO officer of the Town. The company will treat all aspects of the procedure confidentially to the extent reasonably possible.

Employees covered by Union collective bargaining agreements, may refer to contract agreements for complaint procedures.

Complaints of discrimination / harassment shall be handled in accordance with the following procedures.

1. An employee who feels that she/he has been discriminated against or subject to harassment should first report it to her/his supervisor/ Department Head.
2. If the issue is not resolved to the satisfaction of the employee, or if the employee for any reason does not feel comfortable, reporting said complaint to Department Head, she/he should report the complaint either written or in-person to the Human Resources Administrator or the Town Administrator, within 5 business days. The complaint should include information about the alleged discrimination/ harassment such location, date and description of the problem and witnesses.
3. Within five (5) business days of receiving the complaint, the Town will initiate the investigation to determine whether there is a reasonable basis that the alleged violation of the policy occurred. During the investigation, the Town, in consultation with legal counsel, will interview the complainant, the respondent and any witnesses to determine whether the alleged conduct occurred.
4. Within twenty (20) business days after receipt of the complaint, the Town will conclude the investigation and prepare a written report of its findings.
5. Within five business days after the investigation has concluded, the Town will meet with the complainant and the respondent separately, notify them of the findings of the investigation, and inform them of the action being recommended.
 - A. If it is determined that harassment or discrimination in violation of this policy has occurred, the report will outline recommended appropriate disciplinary action. The appropriate action will depend on the following factors:
 - a) the severity, frequency and pervasiveness of the conduct;
 - b) prior complaints made by the complainant;
 - c) prior complaints made against the respondent; and
 - d) the quality of the evidence (e.g., first-hand knowledge, credible corroboration).
 - B. If the investigation is inconclusive or if it is determined that there has been no violation of policy but potentially problematic conduct may have occurred, the report may outline appropriate preventive action.
6. Any employee in a non-bargaining unit may appeal the findings of the investigation by filing a petition to the Personnel Board as per Personnel By-law 10.1.2 under section 10 of the Grievance procedures.
7. If the complaint is not resolved, the complainant may appeal to the Massachusetts Commission Against Discrimination (MCAD) and/or the Equal Employment Opportunity Commission (EEOC), in accordance with approved procedures of such agency.

-Revised - Personnel Board 11/08/16

E. SEXUAL HARASSMENT POLICY

It is a basic policy of the Town of Oak Bluffs that all our employees be treated with dignity and respect. No employee should be subjected to any form of unlawful harassment by management, co-workers or those who have business dealings with the Town of Oak Bluffs. It is our goal to have a workplace that is free from harassment of all kinds including sexual harassment. Sexual harassment of employees occurring while in the workplace or in connection with any other work related environment or setting is unlawful and will not be tolerated by this organization. Further, any retaliation against an individual complaining about sexual harassment or cooperating with the investigation of sexual harassment is similarly unlawful and also will not be tolerated.

We view allegations and concerns about sexual harassment very seriously and we will respond promptly and decisively to instances where complaints of sexual harassment are brought to our attention by use of the established procedures which are set out and explained in this written policy.

Where it has been demonstrated to our satisfaction that such harassment has occurred, we will promptly act to deal with and eliminate any harassment and/or other unlawful conduct. We will impose such corrective action as is necessary up to and including termination.

Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment. It should not be construed as preventing, limiting, or delaying the Town of Oak Bluffs from taking disciplinary action against any individual, up to and including termination, in circumstances where the Town of Oak Bluffs deems disciplinary action appropriate regardless of whether such conduct satisfies the definition of sexual harassment.

DEFINITION OF SEXUAL HARASSMENT

In Massachusetts the legal definition of sexual harassment is as follows:

Unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

1. Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of an individual's employment or as a basis for employment decisions; or
2. Such advances, requests, or conduct having the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, or sexually offensive working environment.

These definitions are broad and include any sexually oriented conduct, whether it is intended to harass or not, that is unwelcome and has the effect of creating a workplace environment that is hostile, offensive, intimidating or humiliating to either male or female workers. The following are some examples of conduct which, depending upon the circumstances, including the severity of the conduct, may constitute sexual harassment.

This list is by no means intended to be exhaustive.

1. Unwelcome sexual advances – these do not necessarily have to involve actual physical touching;
2. Requests for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increase, promotions, increased benefits or continued employment;
3. Assault or coerced sexual acts;
4. Use of sexual epithets; jokes, written or oral references to sexual conduct, discussion regarding one's own or somebody else's sex life; comments on an individual's sex activity, deficiencies or prowess;
5. The display of sexually suggestive objects, pictures or cartoons, and/or "pin-up" type pictures from "adult" magazines or calendars;
6. Unwelcome leering, whistling, brushing against the body, sexual gestures suggestive or insulting comments;
7. Inquiries into one's sexual experience.

COMPLAINTS OF SEXUAL HARRASSMENT

If any of our employees believes that they have been subjected to sexual harassment they have the right to file a verbal or written complaint with the Town Administrator. When we receive the complaint we will then investigate the allegation in a fair and expeditious manner. In addition, where we have a reasonable belief that any improper conduct, including sexual harassment, has occurred, we will also promptly conduct an appropriate investigation. Our investigation will typically include a private interview with the individual making the complaint and with any available witnesses. We will also interview the person or persons alleged to have committed the sexual harassment. While we will attempt to handle the investigation of all complaints of sexual harassment with discretion and as much privacy as possible, we cannot guarantee complete confidentiality if such matters are to be thoroughly investigated and dealt with. All investigations will be conducted through Town Counsel and if necessary independent professionals.

If our investigation reveals that sexual harassment, in our belief, did occur, we will act promptly to eliminate the offending conduct, and where it is appropriate we will also impose disciplinary action up to and including termination from employment. When we have completed our investigation we will inform the person filing the complaint of the results of that investigation.

If you would like to file a sexual harassment complaint you may do so by contacting the Personnel Administrator. The Personnel Administrator is available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process.

DISCIPLINARY ACTION

If sexual harassment or other inappropriate conduct has occurred, we will take immediate action to eliminate the inappropriate conduct. We may also take other action which we deem appropriate, depending on the circumstances, ranging from counseling up to and including termination from employment.

If after the investigation any complaint of harassment or unlawful discrimination, we determine that the complaint is deliberately untrue or that an employee has otherwise provided false information regarding the complaint, disciplinary action up to and including discharge may be taken against the individual who filed the complaint or who gave the false information.

STATE AND FEDERAL REMEDIES

In addition to filing a complaint with the Town, 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. Each of the agencies has a short time period for filing a claim (EEOC – 180 days; MCAD – 6 months):

The US Equal Employment Opportunity Commission (EEOC)
One Congress Street, 10th Floor
Boston MA 02114
(617) 565-3200 (To file complaints)
1-800-669-3362 (Toll free)

The Massachusetts Commission Against Discrimination (MCAD)
One Ashburton Place, Room 601
Boston MA 02108-1518
(617) 727-3990 (Admin. Services)

F. DRUG FREE WORKPLACE POLICY

In accordance with the provisions of the Drug Free Workplace Act of 1988 (United States Code, Title 41, Chapter 10), it is the Town's desire to provide a drug-free, healthy and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner. Individuals under the influence of drugs or alcohol in the workplace pose serious safety and health risks, not only to themselves, but also to all those who surround or come into contact with them.

Any individual who conducts business for the Town, is applying for a position or is conducting business on the Town's property is covered by the drug-free policy.

It is a violation of the Town's drug-free policy to use, possess, sell, trade, and/or offer for sale controlled substances including alcohol. Controlled substances include but are not limited to: opiates, (heroin, morphine, and other narcotics), stimulants (cocaine, amphetamines), depressants (barbiturates, tranquilizers), hallucinogens (LSD, PCP), marijuana and hashish.

Employees who are convicted of controlled substance-related violations in the workplace under state or federal law must inform their Department Head or appointing authority within 5 days of such a conviction or plea. Employees who are convicted of such drug-related violations may be required to successfully complete a drug abuse or similar program through the Employee Assistance Program (EAP), as a condition of continued employment or re-employment.

The Town of Oak Bluffs offers a confidential Employee Assistance Program (EAP) through TotalCare EAP. The EAP is designed to help employees, through individually tailored treatment programs, overcome serious problems they may be having with drug and/or alcohol abuse, and/or other personal problems that may negatively affect their job performance.

Employees can contact the TotalCare EAP directly on 1800 252 4555 or www.theEAP.com for further information regarding drug treatment programs.

Employees using prescription medication that may impair their ability to safely perform their jobs should contact their supervisor to discuss the issue of reasonable accommodation. If an employee's drug screening returns as positive for prescription drugs, the employee will be asked to present a valid prescription for the medication. If a prescription cannot be presented, then the employee will be considered in violation of the drug free policy and subject to the consequences of a positive test.

Each employee, as a condition of employment, may be required to participate in pre-employment, random and reasonable suspicion testing upon selection or request by the Town. All Town employees exempt or non-exempt will be subject to drug or alcohol screen as a result of:

1. Involvement in serious workplace or serious safety-related incident as determined by the Town. A serious workplace accident is any accident resulting in a lost-time injury to the employee and/or accident resulting in the lost-time injury of another individual and/or property damage. A serious workplace incident presenting a substantial risk of lost-time injury or property damage.
2. Being identified as unfit for work or subject to reasonable suspicion. Unfit for work involves the identification of the employee not safely or competently performing their job and presenting unnecessary risk to themselves and to others. The cause for reasonable

suspicion drug testing exists when an employee's observed behavior or physical appearance suggests drug and/or alcohol use or possession of drugs and/or alcohol.

3. In the case of pre-employment testing, if he or she violates the drug-free policy, the offer of employment can be withdrawn. The applicant may reapply after a year and must successfully pass a pre-employment drug test.

Any employee unable to pass alcohol and drug screening will be immediately removed from work, referred to the EAP for assessment and recommendations and required to pass a Return-to-Duty test and sign a Return-to-Work Agreement.

An employee will be subject to the same consequences of a positive test if he/she refuses the screening or the test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter or refuses to cooperate in the testing process in such a way that prevents the completion of the test.

The employee, upon returning to work, may be required to undergo unannounced drug testing over a twelve (12) month period. Subsequent violations may result in discipline, up to and including termination.

The Town recognizes that drug dependency is an illness and a major health problem. The Town's objective is to prevent conviction for drug related offenses prior to their occurrence. Employees who wish to obtain help in dealing with such problems are encouraged to contact the Personnel Department, Department Head or their health insurance provider for assistance. Conscientious effort to seek such help will not jeopardize an employee's job, and will not be noted in any personnel record.

Violations of any and all provisions of this policy may result in disciplinary action up to and including termination.

G. EMPLOYEES ASSISTANCE PROGRAM

If it is suspected that the employee's poor performance or misconduct is a result of alcoholism, drug addiction, mental illness, or family problems, the employee should be informed that the Employee Assistance Program is available to assist them on a confidential basis. If there is an employee experiencing these types of problems or if there are any questions concerning the Employee Assistance Program, please contact the Personnel Office or contact TotalCare EAP directly on 1800 252 4555 or on their website www.theEAP.com.

H. SMOKING IN THE WORKPLACE

The Massachusetts Smoke-free Workplace Law (M.G.L Ch.270, § 22) prohibits smoking in all municipal buildings and municipal vehicles in order to protect employees and the public from second-hand smoke. Employees are permitted to smoke outside the building on their own time during the meal/lunch break. While there is no designated smoking area, an employee smoking outside the building must be sufficiently far away from the town premises so as not to disrupt or disturb employees or visitors with second-hand smoke.

IMPLEMENTATION

The person in charge of each building must post a conspicuous notice or sign at each entrance indicating that smoking is prohibited therein.

Each Department Head shall post a conspicuous sign in a conspicuous place in each town department indicating that smoking is prohibited. A conspicuous sign shall also be affixed on the dashboard of each municipal vehicle.

Municipal employees shall request all business invitees and residents doing business in any municipal building and passenger in or drivers of town vehicles who may be smoking to extinguish smoking materials immediately.

Any employee who knowingly violates this policy may be subject to disciplinary action.

I. WEAPONS PROHIBITED

For the safety of Town employees and the public, employees will not be permitted to bring or possess firearms, explosives, or other weapons on Town property, except those employees authorized to do so in the course of their duties as employees of the Town. This prohibition includes the possession of such weapons in the employee's personal vehicles while parked on Town premises. Examples of prohibited weapons include but may not be limited:

1. All types of firearms including rifles, shotguns and pistols;
2. Archery equipment including arrows, hunting bows and crossbows;
3. Large hunting or weapon-style knives including "bowie knives, machetes, stilettos or switchblades, etc, (this does not prohibit possession of personal folding pocket or penknives or other bladed tools used in the course of employment);
4. Any explosive devices or explosive materials used in such devices;
5. Other objects clearly designed or intended to be used as weapons such as nunchakus, clubs and brass knuckles.

J. TOWN EQUIPMENT POLICY

Equipment, supplies and materials essential in accomplishing job duties are expensive and may be difficult to replace. When using Town property and tools, employees are expected to exercise reasonable care and follow all operating instructions, safety standards, and guidelines. Such property must be used in accordance with its intended purpose or function. Employees unfamiliar with the proper use of Town equipment must gain a working knowledge before utilizing it. The improper, careless, negligent, destructive, or unsafe use or operation of equipment can result in disciplinary action, up to and including termination of employment.

Employees are not allowed to utilize Town property or equipment for any personal projects or for any personal use whatsoever while on the Town premises. Similarly, Town-owned equipment, materials and supplies must not be removed from the premises for personal use under any circumstances. The Town is not responsible for any injuries or accidents that may occur off Town premises.

Employees must return all Town property immediately upon request or upon termination of employment. The Town may take all action consistent with state law to recover or protect its property, including initiating a civil proceeding.

K. 'WHISTLEBLOWER' POLICY

This policy is adopted pursuant to and in accordance with the Massachusetts Whistleblower Protection Act (the "Act") 1992, M.G.L, Ch.149, § 185 and is designed to protect such conduct and provide remedies as are set forth in the Act.

POLICY

1. The Town of Oak Bluffs encourages persons in appointed, elected and volunteer positions to come forward with credible information on illegal practices or serious violations of adopted policies of the Town.
2. The Whistleblower Protection Act specifies that the Town of Oak Bluffs will protect the person from retaliation.

The Town encourages employees to make initial reports of improper action to the Town Administrator in order to permit the Town to address the alleged conduct and minimize negative impact, if any. To receive the protection of the Whistleblower Protection Act, the employee must, by written notice, bring the activity, policy or practice in question to the attention of his/her supervisor or the persons designated by the Town to receive such notice and must afford the Town a reasonable opportunity to correct the activity, policy, or practice. The report should describe in detail the specific facts demonstrating the basis for the complaints, reports or inquiries. Appropriate subjects to raise under this policy would include financial improprieties, accounting or audit matters, ethical violations, or other similar illegal or improper practices or policies. The only exceptions to this written notice requirement are as follows:

- a) The situation is an emergency in nature and the employee is reasonably certain that the activity, policy, or practice is known to one or more supervisors of the Town;
- b) The employee reasonably fears physical harm as a result of the disclosure; or
- c) The employee makes disclosure for the purpose of providing evidence of what the employee reasonably believes is a crime to any federal, state, or local judiciary or to any member or employee thereof, to any federal, state or local law enforcement agency, prosecutorial office, or police or peace officer, or to any grand or petit jury.

Employees who fail to follow this policy in reporting allegations of improper actions by the Town will not receive the protections provided by the Whistleblower Protection Act. Violations of this policy by any employee may result in disciplinary action.

The Town of Oak Bluffs prohibits retaliation against Town employees because he or she has in good faith reported an improper governmental action in accordance to this policy. Employees who believe that they have been retaliated against for making a report in accordance with this policy should report such belief immediately to their Department Head or the Town Administrator/ designee. Town Administrators, officials and supervisors shall take appropriate action to investigate and address complaints of retaliation.

If the Department Head or Town Administrator/ designee does not resolve an employee's complaint that he or she has been retaliated against in violation of this policy may institute a civil action in the Superior Court in accordance with M.G.L. Ch.149, § 185 (d) within two years of the alleged violation. In accordance with M.G.L. Ch.149, § 185(f), an employee who institutes such a civil action shall be deemed to have waived any rights such an employee may have under any collective bargaining agreement, contract, common law, or any other state law, rule or regulation.

A copy of this policy shall remain posted in a conspicuous location at all times. For further information regarding this law, please contact the Personnel Department 508 693 3554.

L. CONFLICT OF INTEREST

The purpose of this policy is to ensure that Town employees comply with the requirements of M.G.L. Ch. 268A which governs conduct as a public official or public employee.

The law prohibits employees from participating in affairs in which they have a financial or other personal interest, whether direct or indirect. Employees are prohibited from:

1. Accepting extra payment, gifts, or privileges beyond their salary in return for performing their job. This includes promises of future employment, favors, or services;
2. Asking for or accept anything \$50 or more from anyone with whom they have official dealings;
3. Recruiting, hiring, transferring, promoting, or firing members of their or their spouse's immediate family;
4. Taking any official action which will affect the financial interests of their immediate family or their spouse's family;
5. Taking any official action affecting their own financial interest, or the financial interest of a business partner, private employer, or any organization for which they serve as an officer, director or trustee;
6. Having a direct or indirect financial interest in a contract made by an agency of the town;
7. Acting as an agent or attorney for anyone other than the town if the town is a party in the matter;
8. Willfully disclosing or knowingly use confidential information that is not available to the public by law and is acquired in the course of official duties;
9. Taking any action that could create an appearance of impropriety or could cause an impartial observer to believe your official actions are tainted with bias of favoritism, unless you make a proper, public disclosure including all relevant facts;
10. Using or attempting to use an official position to secure an unwarranted privilege;
11. Using official authority to interfere with or affect the result of any election or nomination for office;
12. Accepting outside employment that would impair independent judgment in exercising their duties;
13. After leaving public services, take a job involving public contractors or any other particular matter in which they participated as a public employee;

Employees may seek advice concerning these matters from the Personnel Department or the Town Administrator's Office. In addition, employees with concerns may contact the States Ethics Commission, either through their website or through their legal division at (617) 371 9500.

M. TARDINESS AND FAILURE TO REPORT TO WORK

Employees are expected to be reliable and punctual in reporting for scheduled work. Employees are expected to be ready to work at their stated start time each workday.

When employees cannot avoid being late to work or are unable to work as scheduled, they should notify the shift supervisor as soon as possible in advance of the anticipated tardiness or absence. If practicable, notification by the employee personally to his/her supervisor at least one hour prior to the start of the regular workday is expected by employees who are unable to report to work or who will be late.

An employee who is absent for three or more consecutive days is required to provide documentation from a medical care provider upon return to work, verifying the need for medical leave.

An employee absent for three or more consecutive working days who does not properly notify his/her supervisor is considered to have voluntarily terminated his or her employment. Poor attendance and excessive tardiness are disruptive and will not be tolerated, absent any special accommodations pursuant to state or federal law either may lead to disciplinary action, up to and including termination of employment.

N. COMPUTER, ELECTRONIC MAIL AND INTERNET ACCEPTABLE USE POLICY

POLICY

The Town of Oak Bluffs has established a policy with regard to access and disclosure of all computer files and electronic mail messages created, sent, or received by Town employees using the Town's computer and electronic mail system. Access to the Internet has been provided to staff members for the benefit of the Town. Every staff member has a responsibility to maintain and enhance the Town's public image, to use the Internet in a productive manner. To ensure that all employees are responsible, productive and are protecting the Town's public image, the following guidelines have been established for using the Town's computers, electronic mail system and the Internet.

The Town of Oak Bluffs intends to honor the policies and guidelines set forth, but must reserve the right to change them at any time as may be required under the circumstances. It is the Town's fiduciary responsibility to:

1. Maintain a professional work environment where computer misuse will not be tolerated;
2. Reduce the risk of liability and business interruption to the Town;
3. Establish and enforce policy to help prevent the violation of illegal acts and individual rights.

COMPUTER SYSTEMS POLICY

1. The Town reserves the right to access and disclose all messages sent over its electronic mail system, for any purpose. Supervisors may review the electronic mail communications of workers they supervise to determine whether they have breached security, violated the Town's policy, or taken unauthorized actions. The Town may disclose electronic mail messages to law enforcement officials without prior notice to the workers who may have sent or received such messages.
2. The computer system and electronic mail system hardware is Town property. Additionally, all files composed or housed on the computer system and all messages composed, sent, or received on the electronic mail system remain the property of the Town. All files and information maintained on the computer system and electronic mail system are considered records and subject to the requirements of the Freedom of Information Act and the Massachusetts Public Record Law. These laws define which records fall within these categories.
3. The use of the computer system and the electronic mail system is reserved solely for the conduct of business for the Town.
4. The computer system and electronic mail system may not be used to solicit or proselytize for commercial ventures, religious, or political causes, outside organizations, or other non-job related solicitations.

5. The computer system and the electronic mail system are not to be used to send (upload) or receive (download) copyrighted material, trade secrets, proprietary financial information, or similar materials without prior authorization.
6. The computer system and the electronic mail system are not to be used to create any offensive or disruptive messages. Among those which are considered offensive are any messages which contain sexual implications, racial slurs, gender-specific comments, or any other comment that offensively addresses someone's age, sexual orientation, religious beliefs or political beliefs, national origin or disability.
7. No unauthorized software is to be installed on any Town computer system, all software shall be licensed to the Town, and appropriate licenses shall be on file with the Information Technology (I.T.) Manager. No software licensed to the Town shall be installed on any other computer not owned by the Town without written approval.
8. The Town reserves the right to review, audit, intercept, access and disclose all messages and files created, received or sent over the electronic mail system or within the computer system for any purpose. The content of the electronic mail system or computer files properly obtained for legitimate business purposes may be disclosed without the permission of the employee.
9. Random audits to verify that the Town's computers are clear of viruses and used in accordance with Town policy may be performed. The Town will investigate complaints about inappropriate images on computers, inappropriate e-mail, or other inappropriate conduct.
10. Notwithstanding the Town's right to retrieve and read any electronic mail messages or computer files, such messages, or files should be treated as confidential by other employees and accessed only by the intended recipient. Employees are not authorized to retrieve or read any e-mail messages or computer files that are not sent to them.
11. Employees should not attempt to gain access to another employee's messages without the latter's permission. All computers pass codes must be provided to the I.T. Manager. No pass code may be used that is unknown to the Town.
12. Employees should protect all their security codes, user Ids and passwords. All user Id's and passwords are the property of the Town.
13. Removal of files and/ or folders located on the servers is strictly prohibited; all requests for removal of such shall be directed to the I.T. Manager.
14. Content of all communication should be accurate. Employees should use the same care in drafting e-mail and other electronic documents as they would for any other written communications. Anything created on the computer may, and likely will, be reviewed by others.
15. Employees may not forward e-mail to any other persons or entity without the express permission of the sender. Nor shall no employee represent himself or herself as someone else during e-mail or voice communication.
16. Employees may not initiate or forward chain e-mail using Town equipment.

INTERNET POLICY

The Town provides access to the vast information resources of the Internet to help many of its employees to do their jobs faster and smarter and be well-informed employees. Use of the public Internet by the Town employees is encouraged where such use is suitable for business and professional purposes and supports the goals and objectives of the Town.

The specific policies stated below require Town employees to conduct themselves honestly and appropriately on the Internet, and respect the copyrights, software licensing rules, property rights, privacy and prerogatives of others, just as you would in any other business dealings. The Internet is to be used in a manner consistent with this and other Town policies and procedures, especially (but not exclusively) those that deal with intellectual property protection, privacy, misuse of Town resources, sexual harassment, information and data security and confidentiality.

1. The Town Internet facilities are to be used primarily for business purposes. They are not to be used for personal gain or profit. Use should not interfere with an employee's job or the jobs of other employees or interfere with the operation on the Internet gateway.
2. No employee should have any expectation of privacy as to his or her Internet usage. Usage will be subject to review and reserve the right to inspect all files stored in private areas of the network in order to assure compliance with policy.
3. Each employee must protect the confidentiality of Town intellectual property assets. Because of the nature of the Internet, confidential information should not be sent or received via the Internet. An Internet user can be held accountable for any breaches of security or confidentiality.
4. Chat and newsgroups are public forums where it is inappropriate to reveal confidential Town information.
5. The display of any kind of sexually explicit image or document on any Town system is a violation of Town policy on sexual harassment. In addition, sexually explicit material may not be archived, stored, distributed, edited or recorded using Town network or computing resources.
6. Town Internet facilities and computing resources must not be used knowingly to violate the laws and regulations of the United States, or the laws and regulations of any state city, province, or other legal jurisdiction in any material way. Use of any Town resources for illegal activity is grounds for immediate dismissal, and the Town will cooperate with any legitimate law enforcement activity.
7. Any software or files downloaded via the Internet into the Town's network become property of the Town. Any such files or software may be used only in ways that are consistent with their licenses or copyrights. No employees may use Town facilities knowingly to download or distribute pirated software or data. Software downloads should be done through the I.T. Manager.
8. No employee may use the Town Internet facilities to deliberately propagate any virus, worm, Trojan horse, or trap door program code.
9. No employee may use Town Internet facilities to disable or overload any computer system or network, or to circumvent any system intended to protect the privacy or security of another user.

O. CELL PHONE POLICY

POLICY

The purpose of this policy is to provide guidelines to employees regarding the use of Town-issued cellular phones. The Town is committed to providing tools and equipment that enhance the employee's ability to perform all job functions effectively. Cellular phones provide those employees with the ability to perform the functions of their duties in a much more efficient manner. Therefore, Town management requires certain employees and Department Heads to be equipped with cellular phones as a condition of employment. Town business is any use in the course of performing specific job-related duties on behalf and for the benefit of the Town of Oak Bluffs.

INVOICE REVIEW AND PAYMENT

Cellular phone invoices will be reviewed for accuracy by the I.T Manager for payment. Any discrepancies, errors or fraudulent use will be documented and dealt with appropriately and effectively with the employee and Department Head.

The Town recognizes that occasional personal use of cellular phones may be necessary. The Town will pay the contracted monthly minutes. The employee will pay for any minutes and

charges over the contracted monthly amount (minutes or dollars). Additionally, other direct costs associated with personal calls (i.e., directory assistance, long distances, etc.) will be the direct responsibility of the employee.

SAFETY GUIDELINES

Employees must adhere to all federal, state or local rules and regulations regarding the use of cellular phones while driving. Accordingly, employees must not use cell phones if such conduct is prohibited by law, regulation or other ordinance. If cell phone usage is not prohibited in a particular area, employees are encouraged to exercise caution if required to use the phone while driving.

If possible, employees should seek a safe alternative and complete their call. Employees are strongly encouraged to pull off to the side of the road and safely stop the vehicle before placing or accepting a call or to facilitate note taking during a conversation.

Telephone calls that are made or received while driving should be kept brief. If it appears the conversation will be prolonged, the employee should either pull to the side of the road, or inform the caller that the call will need to be completed when the employee is no longer driving.

All Town issued cellular phones are the property of the Town of Oak Bluffs. Employees may be financially responsible for the loss, damage, or failure to return assigned property.

All employees will be required to sign the Cellular Phone Use Acknowledgement Form and agree to abide by its requirements and this policy.

P. WEATHER AND TOWN HALL CLOSINGS

The Town of Oak Bluffs recognizes that severe weather may make it unsafe for staff to travel to work. The Town Administrator shall decide, after consulting with the Highway Superintendent, whether Town offices must be closed to the public or their opening delayed due to inclement weather. This decision shall apply to the Town Offices, Police, Highway, and Fire Departments. When the decision to close Town Offices has been made, all Department Heads will be notified.

This policy does not include essential personnel defined as those members of the Police Department, Fire and Emergency Squads, and Highway Department whose continued work (despite the weather) is necessary for public safety. The managers of those departments shall designate who is essential.

If the decision to close is during the work day, all non-essential may go home as safety permits. Any non-essential personnel who choose to come to work or stay at work may do so at their own discretion.

Any who are already scheduled for vacation must take the time as vacation leave; any who are sick must take it as sick leave.

Q. EMPLOYEE SAFETY

GUIDELINES

The Town will be responsible for leadership in the safety and health program and for providing safe facilities and guidelines for ensuring the safety of personnel. It is understood that safety is also the responsibility of each employee. Supervisors are encouraged to develop proper attitudes toward safety and health for themselves and for those they supervise, to ensure that all operations

are performed with the utmost regard for the safety of all personnel. Employees are expected to accept safety and health guidelines to prevent injuries in the workplace. Departments are encouraged to establish safety guidelines addressing any safety concerns unique to their work site.

SAFETY GUIDELINES FOR MUNICIPAL EMPLOYEES

In the case of accidents that result in injury, regardless of how insignificant the injury may appear, employees should immediately notify their supervisor and the Town Administrator's office, to comply with laws and to initiate insurance and workers' compensation benefits procedures.

General guidelines to follow:

- a. Learn the right way to do your job, ask questions about things you do not understand;
 - b. Use the correct tool and equipment for the job;
 - c. Observe and follow recommended work procedures developed by your supervisor;
 - d. Keep your work area in good order;
 - e. Report unsafe conditions to your supervisor immediately;
 - f. Wear personal protective equipment as required including: Visibility Vests, Eye Protection, Hard Hat, Face Shields, Gloves, Hearing Protection and Safety Shoes.

Some of the best safety improvement ideas come from employees. Those with ideas, concerns, or suggestions for improved safety in the workplace are encouraged to raise them with a supervisor/ Department Head or the Town Administrator. Reports and concerns about workplace safety issues may be made anonymously if the employee wishes. All reports can be made without fear of reprisal.

Employees who violate safety standards, or who cause hazardous or dangerous situations, who fail to report or where appropriate, remedy such situations, may be subject to disciplinary action, up to and including termination of employment.

R. RECEIPT OF GIFTS

- a. Employees are expressly prohibited from soliciting or accepting gifts, gratuity, favors, entertainment, loans, or any other item of monetary value from any person who has or may be seeking to obtain business with or privilege from the Town, or from any person within or outside Town employment whose interests may be affected by the employee's performance or non-performance of official duties.
- b. Acceptance of nominal gifts in keeping with special occasion, such as marriage, retirement, or illness; food and refreshments in the ordinary course of business meetings; or unsolicited advertising or promotional material (pens, notepads, calendars), is permitted.
- c. Contributions made for special gifts such as flowers or other items are not prohibited. However, participation in such activities, including contributions for even nominal gifts to supervisors must be wholly voluntary on the part of each employee and any gifts should be of nominal value.
- d. The policies described above shall apply to supervisors and Department Heads. Appointed or otherwise. In addition, supervisors and Department Heads must avoid placing themselves in a

position that could interfere with, or create the impression of interfering with, the objective evaluation and direction of their subordinates. No supervisors shall accept gifts from subordinates other than those of nominal value for special occasions, and no supervisor or Department Head shall borrow money or accept favors from any subordinate.

S. REQUEST FOR LEAVE POLICY AND PROCEDURE

GENERAL POLICY

Leave is any authorized absence during regularly scheduled work hours that is approved by the proper authority. Leave may be authorized with or without pay and shall be granted in accordance with these rules on the basis of the work requirements of the departments and, whenever possible, the personal wishes of the employee.

PROCEDURE FOR REQUESTING LEAVE

1. Requests for Leave forms are required for any planned absence.
2. All requests for leave need to be presented to the Department Head for approval. All Department Head requests for leave need to go to the Town Administrator for approval.
3. Approval for leave will be contingent on the availability of staff to cover shifts and work volumes in the department.
4. Requests are required not less than 72 hours for personal days, planned sick time (medical/ dental appointments), and bereavement leave. An employee shall request vacation leave giving as much time as possible and no less than two weeks.
5. In cases of an emergency or illness, the employee must inform the Department Head/ Shift Supervisor as much in advance of or within 2 hours to the start of the work shift. An employee shall not be eligible for sick time unless they notify their Department Head / Shift Supervisor.
6. For sick leave in excess of three days, or if the Department Head suspects an abuse of sick leave, the Department Head may require a medical certificate from the attending physician stating that such an illness prevented the employee from working.
7. All leave will be entered onto the payroll sheet by the appointed authority recording the amount of hours and type of leave taken.
8. Requests for leave forms are submitted to the Personnel Office before approved leave is taken, and will be placed in the employees personnel file.
9. All requests for FMLA, MMLA require 30 days and need to be submitted through the Personnel Department for processing

T. SICK LEAVE BANK

PURPOSE

The purpose of this sick leave bank is to provide at no additional cost to the Town, additional sick leave to certain employees who are absent from work for prolonged periods due to personal illness, or injury which does not qualify, for workman's compensation benefits. Participation in or of the bank is wholly and entirely voluntary.

MANAGEMENT

- I. The Sick Leave Bank will be administered by a committee consisting of three members; two members elected by Town Hall employees and the Personnel Administrator will serve as the third. Members of the committee must be contributors in the Sick Leave Bank and will serve a term of two years.
- II. The Committee shall ensure that in the operation of the sick leave bank, the confidentiality of personal data is protected in accordance with applicable laws.
- III. The Committee shall ensure that adequate and accurate records are kept and filed. Minutes will be kept as to all decisions made and the minutes shall be kept on file in the Personnel Office.
- IV. Duties performed as a member of the Committee shall be in addition to all other assigned duties and responsibilities, and shall not entitle a member to any additional compensation or benefits.
- V. The Personnel Administrator will on June 1st of each year send a renewal form to all eligible employees to indicate their desire to continue or be included in the sick leave bank.
- VI. An employee who has exhausted all of his/her accumulated sick, personal leave and has less than 40 hours of vacation leave can complete the withdrawal request application (available through the Personnel office) in case of serious long-term illness or injury. Medical certification will be required stating the reasons for additional time and an approximation of the sick leave time required. Employees enrolled in the sick bank for less than ninety (90) days are not eligible to apply for a withdrawal.
- VII. Leave grants shall not exceed thirty (30) days per application. Employees may apply to the Committee for an extension for up to a further 30 days with supporting medical certification. The maximum number of days a member may receive per accident or illness is sixty (60) days.
- VIII. The Committee shall consider all applications submitted to it for sick leave and shall determine the amount, if any, of sick leave to be granted from the bank. A majority vote of the Committee shall be necessary for granting sick leave bank days and the Committee shall review the facts surrounding the request including reviewing the employee's attendance records.
- IX. If the decision of the Committee is not favorable, it may be appealed to the Personnel Board for review. The decision of the Personnel Board shall be final and binding and not subject to further review.
- X. An employee who has been granted sick leave bank time and returns to work prior to using all their granted time shall have any unused sick leave time reverted back to the sick leave bank.

- XI. The Committee shall promptly report to the Board of Selectmen any fraudulent application for, or use of granted sick leave bank, which comes to its attention.

ESTABLISHMENT

- I. Permanent full time and part time (20 hours or more per week) employees who are eligible to earn sick leave credits may make voluntary contributions to the sick leave bank.
- II. Qualified employees, wishing to participate must make an initial contribution at the start of the fiscal year (on July 1st) of 2 sick leave days and then one day per year thereafter.
- III. All contributions of sick leave hours must be from earned sick leave standing to the credit of qualified employees as of July 1st and may not be borrowed against anticipated future earnings.
- IV. If the sick leave bank is exhausted and in addition to the annual contribution, the Committee may, with the approval of the Town Administrator, deduct an additional sick leave day from participants in the bank.
- V. Any employee who has made a contribution to the sick leave bank may stop participation in the bank at any time. However, all contributions are to be considered property of the bank. If a member wishes to stop participating a written notice must be given to the Committee through the Personnel Office.
- VI. The Committee may, by a majority vote of all active participants dissolve the sick leave bank. In such instances, credits previously awarded by the Committee and legitimately relied upon by an employee shall be allowed to stand. All other credits in the bank shall be considered rendered to the Town if the bank is dissolved.

U. CORI POLICY

Where Criminal Offender Record Information (CORI) checks are part of a general background check for employment, volunteer work or licensing purposes, the following practices and procedures will generally be followed.

- I. CORI checks will only be conducted as authorized by the Department of Criminal Justice Information Services (DCJIS) and MGL, Ch; 6 §§ 69 through 178B and only after a CORI Acknowledgement form has been received. For the Town of Oak Bluffs this is relevant for certain candidates of employment as well as volunteers of recreation programs and summer camps who for instance may have the potential of unmonitored access to children. CORI checks will be submitted on initial employment and performed no less than three years thereafter.
- II. All applicants will be notified that a CORI check will be conducted. If requested, the applicant will be provided with a copy of the CORI policy.
- III. An informed review of a criminal record requires adequate training. Accordingly, all personnel authorized to review CORI in the decision-making process will be thoroughly familiar with the educational materials made available by the DCJIS. CORI checks for the Town of Oak Bluffs will be processed through the Personnel Office.

- IV. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on CORI checks will be made consistent with this policy and any applicable law or regulations.
- V. If a criminal record is received from, the authorized individual will closely compare the record provided by DCJIS with the information on the CORI request form and any other identifying information provided by the applicant, to ensure the record relates to the applicant.
- VI. If the Town of Oak Bluffs is inclined to make an adverse decision based on the results of the CORI check, the applicant will be notified immediately. The applicant shall be provided with a copy of the criminal record and the organization's CORI policy, advised of the part(s) of the record that make the individual unsuitable for the position or license, and given an opportunity to dispute the accuracy and relevance of the CORI record.
- VII. Applicants challenging the accuracy of the policy shall be provided a copy of DCJIS's *Information Concerning the Process for Correcting a Criminal Record*. If the CORI record provided does not exactly match the identification information provided by the applicant, the Town of Oak Bluffs will make a determination based on a comparison of the CORI record and documents provided by the applicant. The Town of Oak Bluffs may contact DJCIS and request a detailed search consistent with CHSB policy.
- VIII. If the Town of Oak Bluffs reasonably believes the record belongs to the applicant and is accurate, based on the information as provided in section IV on this policy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not limited to the following:
 - (a) Relevance of the crime to the position sought;
 - (b) The nature of the work to be performed;
 - (c) Time since the conviction, plea;
 - (d) Age of the candidate at the time of the offense;
 - (e) Seriousness and specific circumstances of the offense;
 - (f) The number of offenses;
 - (g) Whether the applicant has pending charges;
 - (h) Any relevant evidence of rehabilitation or lack thereof;
 - (i) Any other relevant information, including information submitted by the candidate or requested by the hiring authority.
- IX. The Town of Oak Bluffs will notify the applicant of the decision and the basis of the decision in a timely manner.

V. WORKPLACE VIOLENCE POLICY

PURPOSE

The Town of Oak Bluffs intends to provide a professional environment that is free of violence, threats of violence, harassment, intimidation or other disruptive behavior by establishing preventative measures, informing employees of this policy, providing assistance and support to those who have been exposed to workplace violence, and holding those responsible for workplace violence accountable for their actions.

It is intended that all management tools be employed to accomplish the goal of avoiding or at the very least reducing the effect of workplace violence on the victim(s) and providing consequences to those who commit workplace violence. Management will utilize available resources such as the Town's Employee Assistance Program (EAP), Human Resources, law enforcement, and all applicable personnel policies and procedures to accomplish these goals.

POLICY

The Town maintains a zero-tolerance policy toward workplace violence, or the threat of violence, by or against any of its employees, or elected or appointed officials, volunteers working for the Town, customers, the general public, and/or anyone who conducts business with the Town. Acts and threats of workplace violence disrupt essential service delivery and undermine the integrity of the workplace and the personal safety of affected employees and visitors. The Town strives to foster a work environment free from acts of workplace violence, including threats and acts of intimidation.

All employees are responsible for helping maintain a violence-free workplace. To that end, employees are required to govern themselves accordingly. Any use of work time, resources or workplace facilities to commit or threaten to commit acts of workplace violence is cause for discipline up to and including termination.

The best way to prevent workplace violence is to raise the awareness of Department Heads and employees and encourage early reporting and resolution of problem behavior before it escalates into violence. Any employee experiencing or witnessing an act of violence is strongly encouraged to report it to their immediate supervisor and/or the Town Administrator or the Human Resources Department.

Each act or threat of violence will be investigated, and appropriate action will be taken. Any such act or threat may lead to discipline, up to and including termination. In compliance with State, Federal and Local laws, the Town remains committed to minimizing workplace violence risks and hazards by ensuring all reports of incidents of workplace violence are addressed promptly with the safety of the impacted employee(s) and workplace as top priority.

SCOPE

This policy applies to all full-time, part-time and temporary/seasonal employees of the Town, members of the public, vendors, interns, contractors, consultants, and others who do business with the Town either in a Town facility or off-site location where Town business is conducted.

DEFINITIONS

Workplace: Any Town owned or leased property; any location where Town business is conducted; Vehicles or equipment (whether owned by the Town or otherwise being used for business); or any location where violence has resulted from an act or decision made during the course of conducting business.

Workplace Violence: includes but is not limited to the following:

- Physical assault and/or battery regardless of absence or presence of resulting injury such as hitting, pushing, punching, pinching, restraining, kicking or holding;
- Threats and/or acts of intimidation communicated by any means (written, oral or electronic) that would cause a reasonable person to fear for his/her own physical safety or that of a colleague or customer;

- Destruction or attempted destruction of Town owned or leased property including Information Technology and electronic systems;
- The use of Town property, services or equipment such as phones, faxes, copiers, computers, vehicles etc. for the purpose of threatening any individual with physical harm or an act of violence including acts of criminal harassment, sexual harassment and stalking in violation of MGL Ch.265, and domestic violence in violation of MGL CH. 209A.
- Disruptive, physically aggressive or intimidating behavior (such a throwing objects, pounding on an object, intentionally interfering or blocking the movement of another person would be interpreted as threatening, intimidating or humiliating and cause for disruption of work productivity);
- The possession of weapons either on person or in a vehicle while on Town property, including firearms, hunting bows, crossbows, weapon style knives, pepper spray, explosives, flare gun, and other objects designed or intended to be used as weapons such as nunchakus, clubs and brass knuckles is strictly prohibited. Exemption of this provision is for sworn police officers of the Town of Oak Bluffs who are required to carry firearms as issued by the Town in the line of duty;
- Any form of retaliation against anyone who, in good faith, reports a possible violation of this policy or cooperated in any internal investigate by the Town, its agents or by law enforcement.

Incidents of workplace violence may take place between employees; employees and clients or customers, employees and acquaintances, partners or spouses; and employees and the general public and appointed or elected officials, including visitors to the Town sites and/or people encountered in the community while performing business.

Workplace violence can include actions or communications in person, by letter or note, by telephone, by fax, by electronic mail or through social media.

GUIDELINES FOR REPORTING POLICY VIOLATIONS

1. Contact 911 immediately if the act or altercation constitutes a violent act/ threat or life-threatening emergency.
2. If the incident does not rise to the level of an emergency, the employee should contact his or her immediate Supervisor, Department Head, Town Administrator or Human Resources Office. If the Supervisor/ Department Head believes that a crime may have been committed, he or she should contact the Police Department.
3. The Supervisor/Department Head must report all instances of workplace violence to the Town Administrator or Human Resources Office. In instances that involve emergency response or potential criminal activity, the Town Administrator or Human Resources office will contact the Police Department for assessment, and, if necessary, request an investigation.

4. Initial reports of workplace violence and threats may be made verbally or in writing. Written statements should include date, time and location of alleged incident, description of the event and any witnesses to the event.
5. Employees who report incidents of workplace violence may request to do so confidentially. Such requests will be honored to the degree reasonable under the circumstances; however, there is no guarantee of complete confidentiality.

GUIDELINES FOR INVESTIGATION AND DISCIPLINE INVOLVING POLICY VIOLATIONS

All reports, regardless of whether they are communicated verbally or in writing shall be investigated promptly. As necessitated by the seriousness of the incident, the Town Administrator may assemble a Response Team that consists of staff from the affected Department, Police, Labor Counsel, Human Resources and may include the Employee Assistance Program, and others as deemed necessary.

The Response Team is responsible for establishing the protocol in the event of a threat or violent incident that may include but is not limited to:

- Evaluating the potential violence problems;
- Address employees' safety concerns throughout the ongoing investigation, this may include a written or verbal safety plan that addresses the immediate and ongoing workplace safety needs of the impacted employee(s).
- Establishing a plan for the protection of co-workers and other potential targets;
- Coordinating with affected parties such as victims, families, employees, media, or law enforcement personnel;
- Referring victims to appropriate assistance and community service programs; and
- Assuring that immediate (within 24 hours) and on-going counseling is available to traumatized individual.

The Internal investigation of workplace violence will be conducted in a manner that is sensitive to the safety concerns and privacy of the victim(s), the alleged perpetrator, and witnesses. All reports of violations of this policy will be treated seriously and handled with the highest degree of discretion possible under the circumstances.

Should an employee commit an act of violence and it is determined in the investigation that the employee did in fact, commit the violent act, Human Resources may refer them to the EAP. In these cases, failure by the employee to keep the initial appointment with the EAP and follow through with the prescribed program may result in disciplinary action, including termination. The Town may determine the first offense will result in immediate termination or any other level of disciplinary actions, depending on the nature and severity of the offense.

Should an employee be the victim of workplace violence, the Department Head or Human Resources might offer additional referral services to assist in coping with any effects of the incident.

RETALIATION

There is strict prohibition against retaliation of any kind. The Town will not tolerate retaliations against any person who brings a complaint of workplace violence in good faith, or serves as a witness in the investigation of a complaint. No individual shall be penalized in any way for having participated in such investigation.

Any allegations of retaliation should be reported immediately to the Department Head or the Town Administrator. Anyone found to have engaged in retaliation will be subject to discipline, up to and including termination of employment.

WORKPLACE PROTECTIONS FOR DOMESTIC VIOLENCE, SEXUAL HARASSMENT AND STALKING VICTIMS

The Town recognizes that domestic violence, sexual harassment and stalking occurring outside of the workplace may lead to violence and disruption at work with the risk of potential harm to targeted victims and other employees and officials in the workplace. These effects may include a disruption of workplace productivity for victims, residents and other employees.

In an effort to afford victims of domestic violence, sexual harassment, and stalking the ability to protect themselves while at work, and to ensure the safety of all employees, the Town has established the following guidelines for managers and employees for addressing reports and allegations of domestic violence, sexual harassment and stalking involving Town employees.

- A. Department Heads shall foster a climate in which victims can be comfortable disclosing abuse, including posting resource information where victims and abusers can go for assistance;
- B. Department Heads and employees shall report crimes which occur in the workplace which they believe to be domestic violence, sexual harassment or stalking to local police;
- C. When appropriate, Department Heads shall work with impacted employees to ensure workplace safety plans are completed in response to reports of domestic violence, sexual harassment and stalking;
- D. Department Heads and employees shall respect the privacy of victims and preserve confidentiality to the extent practicable, in dealing with non-emergency situations involving sexual harassment, domestic violence or stalking;
- E. When notified of a restraining order in effect, the Department Heads shall utilize all reasonable efforts to address the employee's concerns about safety and report any workplace violations of such order to the policy.
- F. Department Heads shall provide/ victims with workplace safety remedies and options including but not limited to; screening calls, temporary work station relocation, time off to attend court-related hearings and/or counselling, and/or other reasonable work related safety option that minimizes the workplace safety risks to the impacted employee;
- G. Employees with active restraining orders are strongly encouraged to promptly notify and provide a copy of any order to the Town Administrator, or their designee.
- H. The Town Administrator and Human Resources Offices will provide assistance and support to managers and employees in response to reports of domestic violence sexual harassment and stalking.
- I. To the fullest extent permitted by law, all information in such reports shall be treated as confidential, kept separate from employee personnel files in a secure location in the

custody of the Human Resources Department for the purposes of workplace safety incident management.

The Town is committed to taking the action necessary to protect any employee threatened by acts of workplace violence.

EMPLOYEE ASSISTANCE PROGRAM

All employees of the Town are eligible to access the Employee Assistance Program (EAP), a confidential resource for support during difficult times.

This service is free to employees and their immediate family members. Details on this resource can be sought from the Human Resources office or directly from the website www.theeap.com or call the confidential support line on 1-800-252-4555 or 1800-225-2527.

Voted to adopt Personnel Board – 5/22/2018

W. WORKER’S COMPENSATION POLICY

POLICY STATEMENT

The Town of Oak Bluffs is committed to providing a work environment that is safe for all employees. If a work-related injury occurs, the procedures contained within must be followed to insure compliance.

This policy applies to all Town employees excluding full-time police officers and volunteer firefighters covered under 111F. Employees whose employment is regulated by bargaining agreements are subject only to those portions of this policy which are not specifically governed by law or agreement.

REFERENCES: Massachusetts General Law, Chapter 152.

POLICY DESCRIPTION

The first priority after an accident or injury is to assure that the employee involved receives the first aid that is necessary. If medically appropriate, 9-1-1 should be called immediately. Employees with life-threatening work-related injuries should be taken to the Emergency Room at the Martha’s Vineyard Hospital or, if the work-related injury occurs off-Island, then to the nearest Emergency Room.

When an employee sees a doctor or other health-care professional, inform them that you are seeking treatment for a work-related injury.

REPORTING THE ACCIDENT

It is the responsibility of the Supervisor to ensure the following procedures are followed to start the Claims process.

Reports must be submitted to the Department Administrator or directly to Human Resources Office as soon as possible and no later than five days after the injury

If the employee is unable to fill out the accident report due to the injury, the Supervisor is responsible for filling out the Form 101 (first report of injury) and submitting it to Human Resources.

All Department Administrators have been supplied with the forms and they can also be found on the Personnel Department webpage:

oakbluffsma.gov/158/Personnel-Department under workers compensation procedures.

PROCEDURES

1. STATEMENT OF INJURY FORM

To be completed by the injured employee, for all incidents, regardless if medical treatment is received or not.

This form is to be completed immediately, if the employee is rushed to the ER, it is completed at the appropriate opportunity.

2. FORM 101 (FIRST REPORT OF INJURY)

Complete this form only if medical attention is received.

To be completed by the Department Head/ Supervisor or Office Administrator

3. STATEMENT FROM ON-DUTY-SUPERVISOR FORM: Required by end of shift. This is for Fire-EMS, Police and other Department Shift Supervisors.

4. STATEMENT FROM WITNESS/ES FORM: Required by end of Shift.

If no medical is sought, only a Statement of Injury Form is required.

LOST TIME FROM WORK

The first five days an employee is absent due to a work-related injury, will be paid out of the employee's accrued sick leave benefit. If the employee remains out of work for a continuous twenty-one (21) days, those five days will be reinstated to the employee's sick leave bank.

Once the employee is absent for more than five (5) days, the employee will be placed on Workers' Compensation benefits, as determined by the Town's Workers Compensation Claims Consultant.

The employee will be directly contacted by the Workers' Compensation Claims Consultant outlining the process and detailing the administration of benefits.

Once placed on Workers' Compensation benefits, the employee will receive 60% of their average weekly wage. This 60% portion is not taxable and will be mailed to employees directly from Claims Strategies.

The employee may elect to supplement the 40% difference of the statutory benefit with benefit leave (e.g., sick, vacation or personal leave), if available and until exhausted. This supplement is taxable and will be reflected on the employee's paycheck.

HEALTH AND LIFE INSURANCE DEDUCTIONS

If the employee is on workers' compensation for more than one month, the employee must make payment for insurance premiums on the first of the month, one month in advance of coverage. For example, premiums paid on March 1, will pay for coverage beginning April 1.

This payment plan is required for employees who do not elect to use the supplement benefit leave provision or who do not have accrued leave available.

Payment should be made by check payable to the Town of Oak Bluffs and delivered either by mail or in person to the Treasurer-Collector's Office, PO Box 1327, Oak Bluffs, MA 02557.

Payment not received in a timely manner will result in loss of coverage.

FMLA

In accordance with the Family Medical Leave Act of 1993 (FMLA), your Workers' Compensation and FMLA entitlement of 12 weeks will run concurrently.

ACCUMULATION OF VACATION AND SICK LEAVE

Employees who are receiving Workers' Compensation payments for a period in excess of 30 days will not earn or accumulate sick and vacation leave during the time they are on Workers' Compensation benefits.

WORKERS COMPENSATION CLAIMS MANAGEMENT CONSULTANT

Paul Ricciardi – Claim Strategies
TEL: 401 435 2800 ext: 1393
pricciardi@claimstrategies.com
FAX: 401 438 0980

All questions regarding this policy may be directed to the Human Resources Office.

Approved and Adopted by the Personnel Board: 9/3/2019

IV. PROGRESSIVE DISCIPLINARY PROCEDURES

A. STATEMENT OF POLICY

It is the primary goal of the Town of Oak Bluffs to provide effective and efficient service to the public. To this end, it is the responsibility of all managers to attempt to improve employee effectiveness and prevent performance problems.

The purpose of this policy is to establish guidelines that will assist managers in the counseling and disciplining of their employees. It also outlines various techniques and methods to help managers prevent and handle performance problems by dealing with the situations fairly, consistently, progressively, and in a professional manner.

This policy does not waive, modify, or diminish any managerial rights, rights that the management or appointing authority has by law, and rights that the management or appointing authority has with respect to provisional problems.

This policy is applicable to all employees of the Town of Oak Bluffs. For the purpose of this policy, if a Department Head is subject to disciplinary procedures, their Department Head or Supervisor will be the Town Administrator.

B. GENERAL PROCEDURES

Many authorities may be involved in the final resolution of discipline issues including (but not limited to): the Personnel Board, The Town Administrator, the Board of Selectmen or independent arbitrators. Prior to imposing any level of discipline, the following standards should be met:

1. **NOTICE:** The purpose of progressive discipline is to ensure that the employees are provided with the necessary assistance and motivation to meet the Town's expectations in the areas of performance and behavior. The employee must receive clear and unequivocal warning stating the precise area in which his/her performance is unacceptable, and the probable consequences of the behavior;
2. **CONSISTANCY:** Progressive disciplinary action is to be administered equally and uniformly without regard to race, color, sex, age, religion, creed, national origin, disability, participation in constitutionally protected activities, or other discriminatory criterion;
3. There must exist sufficient cause to discipline the employee;
4. The harshness of the penalty must fit the seriousness of the action;
5. The employee must be given full opportunity to explain his/her actions and to reform or rehabilitate himself/herself;
6. The situation must be fully documented (unless it is a severe infraction which may be cause for immediate dismissal).

C. ORAL REPRIMAND

The oral reprimand is the least severe form of disciplinary action and, in most cases; it is the first form of disciplinary action taken against an employee. The oral reprimand is for situations when a minor infraction or misdemeanor has occurred and when the employee should be aware of the consequences of their infraction without incurring any further disciplinary action.

After communicating the warning, the supervisor must document the incident. Both the oral reprimand and the written summary should include:

1. Specific reference to the standard of performance or behavior involved;
2. Facts that detail the manner in which the employee failed to meet the standard;
3. The specific consequences of the employee's non-compliance with the standard;
4. The expected performance or behavior;
5. A warning to the employee of what the next step of disciplinary action will entail.

This written summary should be presented to the employee for his/her review and signature. The employee should also be given an opportunity to attach any comments to the written summary. Completed copies of the written summary and employee comments (if applicable) must be filed in the employee's personnel file. The employee shall also be provided with a copy for his or her own records.

D. WRITTEN REPRIMAND

The written reprimand contains all of the elements of the oral reprimand listed above and, in most cases will usually be initiated if the oral reprimand has failed to bring about sufficient improvement. If the employee has committed a serious offense, (e.g. insubordination) the written reprimand may be the first disciplinary action taken.

As with the oral reprimand, the written reprimand should be issued after a formal meeting with the employee. The employee should also be given an opportunity to attach any comments to the written summary. Completed copies of the written summary and employee comments (if applicable) must be filed in the employee's personnel file. The employee should also be provided with a copy for his or her own records.

E. SUSPENSION

Suspension is the temporary and involuntary separation of an employee for employment. The purpose of suspension is to serve as a final warning to an employee that continued misbehavior or poor performance may result in discharge. Suspension is generally imposed only when prior warnings or reprimands have not caused the employee to bring his/her performance or behavior up to the expected standard. In some cases involving serious misconduct, suspension may be the first disciplinary action taken. At least one suspension without pay should precede the discharging of an employee, except in the case of serious misconduct.

The length of suspension is left to the discretion of the Department Head but should be consistent with the frequency and severity of the offense. The suspensions should become progressively more severe with each similar infraction. A probationary employee need not be suspended prior to discharge (although a pre-termination hearing is mandatory).

SUSPENSION WITHOUT PAY OF FIVE DAYS OR LESS

1. The Department Head with prior authority of the Town Administrator has the authority to immediately suspend an employee without pay for five days or less without a hearing prior to such suspension. Supervisory or management levels have the same authority only when specifically designated by the Department Head.
2. Within 24 hours after imposing a suspension without pay of five days or less, the person imposing the suspension must provide written notice to the employee that shall:
 - a) State the reason/s for the suspension;
 - b) Inform the employee that he/she may, within 48 hours after the receipt of such notice, file a written request for a hearing before the Department Head and Town Administrator on the question of whether there was cause for the suspension.
3. HEARING: If the employee files such a request, he/she shall be given a hearing before the Personnel Board or by the designated Hearing Officer appointed by the Personnel Board within 4 days after receipt by the Department Head of the request. At the hearing the employee shall be allowed to answer, personally or by counsel, any of the charges that have been made against him/her.
4. FINAL DECISION: The Department Head shall give the employee a written notice of the decision within 7 days after the hearing. An employee whose suspension is decided, after the hearing, to have been without just cause shall be deemed not to have been suspended and shall be compensated for the period for which he/she was suspended.

SUSPENSION WITHOUT PAY FOR GREATER THAN FIVE DAYS

The Department Head may not delegate the authority to suspend an employee without pay for greater than 5 days. Before imposing this more serious suspension, the employee is suspended with pay and the following procedures must take place:

1. WRITTEN NOTICE: The employee shall be given a written notice by the Department Head which shall:
 - a) Specify the action contemplated;
 - b) State the specific reason/s for such action;
 - c) Inform the employee that he/she will be given a full hearing concerning the reason/s before the Personnel Board or their designated Hearing Officer;
 - d) Written notice of the time and place of the hearing at least three days prior to the holding thereof.
2. HEARING: At the hearing, he/she shall be allowed to answer, personally or by counsel, any of the charges that have been made against them.
3. FINAL DECISION: Within 7 days of the receipt of the Personnel Board's or Hearing Officer's report (if applicable), the Town Administrator shall give the employee a written notice of the decision, which shall state fully and specifically the reasons thereof and be sent to the Personnel Department for inclusion in the employee's personnel file.

F. DISCHARGE

1. Discharge is the permanent and involuntary separation of an employee from employment. Because of its severity, action to discharge an employee is generally initiated only after the oral and written reprimand process and one or more suspensions have failed to bring about the employee's conformance with the requisite standards of performance or behavior. In cases involving serious misconduct (e.g. theft, assault); discharge may be initiated without any proper warnings or suspensions.
2. When the Department Head is contemplating imposition of a discharge, the Town Administrator and Board of Selectmen must be notified, Advice of Labor Counsel must be requested.
3. The procedure for discharging an employee is similar to that for imposing suspension without pay for greater than 5 days, with the following requirements:
 - a) If the discharge is for lack of work, lack of money, or the abolition of the position, seven days' notice is necessary prior to the hearing;
 - b) Prior to the hearing, consideration should be given to placing the employee in administrative leave with pay;
 - c) The Department Head must complete and deliver to the discharged employee a Separation Notice. This form is available from Town Administrator's Office.
 - d) If the employee falls within the requirements of M.G.L. Ch .32, § 16, the Department Head must provide the Retirement Board with a copy of the record of the employee's discharge hearing. In the absence of such a record, a summary of any response made or defense raised by the employee to the accusations must be filed.

G. ALTERNATIVES TO SUSPENSION OR DISCHARGE

Prior to the initiation of action to suspend or discharge an employee, consideration should be given to other alternatives such as demotion, reassignment, or resignation. However, a hearing may still be necessary for these alternatives as well. Additionally, demotion or reassignment should only be considered when the employee has demonstrated an ability to perform the duties of the position to which the demotion or reassignment is contemplated.

V. RECORDS

A. PERSONNEL RECORDS

A centralized personnel file shall be kept for each employee in the Personnel Department. To ensure the uniformity and confidentiality of employee personnel files, content of and access to files is limited and shall be controlled in accordance with this policy.

It is the policy of the Town that all employees shall comply with the laws governing public records and confidential information. No employee shall knowingly or willingly release confidential personnel information, nor shall employees refuse to provide public information. Town employees have a diminished expectation of privacy as public employees.

The following information shall be contained within them:

1. Pre-employment documents such as applications, resumes, required licenses, offer of employment, copy of job ad, copies of transcripts or diplomas, pre-employment physical

reports, military discharge documentation, Civil Service certifications, receipt on receiving and read personnel policies and procedures, signed waivers, drug free, cell phone, and other similar material.

2. Post-employment document such as performance appraisals, disciplinary action notices, employment status changes, commendations, awards, letters of appreciation, records of special training received, copies of information sent to the employee, or to third party about employee, requests for leave, exit interview and reference release form.

Medical records, Worker's Compensation claims, I-9 forms (Employment and Eligibility Verification) and pending grievance files shall all be kept in the Personnel Department in accordance with State and Federal Laws.

All personnel actions will be documented to insure accurate maintenance of personnel records. It is the responsibility of the Appointing Authority/ Department Head to forward all relevant documents to the Personnel Department for inclusion in the official file. Department Heads may keep duplicated of personnel records and will be responsible for the confidentiality and security of such files.

B. FINANCIAL RECORDS

The Town Treasurer will be responsible for the maintenance of a financial record for each employee. This record will include; position classification, annual salary, date of last increment, salary deductions, health insurance/ dental enrollment, Worker's Compensation of injury payments and any other financial records that may be necessary.

C. REMOVAL

Once inserted into an employee's personnel file, documents may only be removed if there is clear and compelling reason to so do. The employee should forward a request to his/her Department Head. The Department Head shall forward the request, and a letter of support or denial, to the Town Administrator.

The Town Administrator will make a determination as to whether or not the material in question should be removed from the employee's personnel file. If the employee is not satisfied as to the decision of the Town Administrator, he or she may file an appeal with the Personnel Board in accordance with Personnel By-law.

D. ACCESS TO PERSONNEL FILES

An employee or former employee upon written or verbal request and in the presence of the Personnel Administrator, may review, add rebuttal to a particular document, or be provided with a copy of all or part of his/her personnel file. The Personnel Department has up to 5 days from the receipt of the employee's request to allow the employee access to their personnel file. An employee may request to review his or her personnel record two times within a calendar year.

Employers must notify an employee within ten days of placing information in the employee's personnel record that negatively affect the employee's qualification for employment, promotion, transfer, additional compensation or subject the employee to disciplinary action.

Other individuals authorized access to employee personnel files include: the Town Administrator; Board of Selectmen, the Personnel Administrator; attorneys or union representatives of the employee who have written authorization from the employee; the Department Head; attorneys or their agents representing the Town; and third parties in response to a court order.

Authorized employees may respond to requests for verification of employment from banks, mortgage companies, credit card agents, etc. by providing basic public information such as length of service and salary rate. Employees, who receive requests for personnel information other than employment verification, should refer such requests to the Personnel Department.



Town of Oak Bluffs

REQUEST FOR LEAVE

Employee name: _____

Job title: _____ Department: _____

REASON FOR LEAVE:

- | | |
|--------------------------|---------------------------|
| _____ Personal leave | _____ Bereavement |
| _____ Sick | _____ Leave without pay |
| _____ Military | _____ Training/conference |
| _____ Jury duty | _____ Vacation |
| _____ Parental Leave Act | _____ Volunteer time |

Other (explain) _____

TIME/ DATES OF LEAVE REQUESTED:

1. Complete this section for leave **less than one day.**

Date of Leave: _____

Time of leave: From : _____ To: _____

Total number of hours requested: _____

2. Complete this section for leave of **one day or more.**

Dates of Leave: From: _____ To: _____

Total number of days requested: _____

Total number of hours requested: _____

Employee Signature: _____ Date: _____

TO BE COMPLETED BY DEPARTMENT HEAD

I recommend that this leave be approved: ____ Yes ____ No ____ Paid ____ Not Paid

Comments: _____

Department Head Signature: _____ Date: _____

ATTACHMENT B.

MCAD Guidance PREGNANT WORKERS FAIRNESS ACT Issued 1/23/2018

The Pregnant Workers Fairness Act (“the Act”) amends the current statute prohibiting discrimination in employment, G.L. c. 151B, §4, enforced by the Massachusetts Commission Against Discrimination (MCAD). The Act, effective on April 1, 2018, expressly prohibits employment discrimination on the basis of pregnancy and pregnancy-related conditions, such as lactation or the need to express breast milk for a nursing child. It also describes employers’ obligations to employees that are pregnant or lactating and the protections these employees are entitled to receive. Generally, employers may not treat employees or job applicants less favorably than other employees based on pregnancy or pregnancy-related conditions and have an obligation to accommodate pregnant workers.

Under the Act:

- Upon request for an accommodation, the employer has an obligation to communicate with the employee in order to determine a reasonable accommodation for the pregnancy or pregnancy-related condition. This is called an “interactive process,” and it must be done in good faith. A reasonable accommodation is a modification or adjustment that allows the employee or job applicant to perform the essential functions of the job while pregnant or experiencing a pregnancy-related condition, without undue hardship to the employer.
- An employer must accommodate conditions related to pregnancy, including post-pregnancy conditions such as the need to express breast milk for a nursing child, unless doing so would pose an undue hardship on the employer. “Undue hardship” means that providing the accommodation would cause the employer significant difficulty or expense.
- An employer cannot require a pregnant employee to accept a particular accommodation, or to begin disability or parental leave if another reasonable accommodation would enable the employee to perform the essential functions of the job without undue hardship to the employer.
- An employer cannot refuse to hire a pregnant job applicant or applicant with a pregnancy-related condition, because of the pregnancy or the pregnancy-related condition, if an applicant is capable of performing the essential functions of the position with a reasonable accommodation.
- An employer cannot deny an employment opportunity or take adverse action against an employee because of the employee’s request for or use of a reasonable accommodation for a pregnancy or pregnancy-related condition.
- An employer cannot require medical documentation about the need for an accommodation if the accommodation requested is for: (i) more frequent restroom, food or water breaks; (ii) seating; (iii) limits on lifting no more than 20 pounds; and (iv) private, non-bathroom space for expressing breast milk. An employer, may, however, request medical documentation for other accommodations.
- Employers must provide written notice to employees of the right to be free from discrimination due to pregnancy or a condition related to pregnancy, including the right to reasonable accommodations for conditions related to pregnancy, in a handbook, pamphlet, or other means of notice no later than April 1, 2018.

- Employers must also provide written notice of employees' rights under the Act: (1) to new employees at or prior to the start of employment; and (2) to an employee who notifies the employer of a pregnancy or a pregnancy-related condition, no more than 10 days after such notification.

The foregoing is a synopsis of the requirements under the Act, and both employees and employers are encouraged to read the full text of the law available on the General Court's website here:

<https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter54>.

If you believe you have been discriminated against on the basis of pregnancy or a pregnancy-related condition, you may file a formal complaint with the MCAD. You may also have the right to file a complaint with the Equal Employment Opportunity Commission if the conduct violates the Pregnancy Discrimination Act, which amended Title VII of the Civil Rights Act of 1964. Both agencies require the formal complaint to be filed within 300 days of the discriminatory act.

Boston Headquarters: One Ashburton Place, Room 601, Boston, MA 02108 | (617) 994-6000

Springfield: 436 Dwight Street, Room 220, Springfield, MA 01103 | (413) 739-2145

Worcester: 484 Main Street, Room 320, Worcester, MA 01608 | (508) 453-9630

New Bedford: 128 Union Street, Suite 206 New Bedford, MA 02740 | (774) 510-5801



Town of Oak Bluffs

SICK LEAVE BANK CONTRIBUTION FORM

I, _____ hereby authorize the
(PLEASE PRINT)

Town of Oak Bluffs Personnel Department to transfer

- One day of my accumulated sick leave into the Sick Leave Bank as per my annual contribution and renewal of participation.
- Two days of my accumulated sick leave into the Sick Leave Bank as my initial contribution and participation into the Sick Leave Bank.

SIGNATURE: _____

DATE: _____

NO, I DO NOT WISH TO CONTRIBUTE ANY DAYS TO THE SICK LEAVE BANK

I WISH TO DISCONTINUE MY PARTICIPATION IN THE SICK LEAVE BANK

SIGNATURE: _____

PRINT NAME: _____

DATE: _____



Town of Oak Bluffs

EMPLOYEE RECEIPT

PERSONNEL POLICIES AND PROCEDURES

The undersigned hereby acknowledges that he/she has received and read the Personnel Policies and Procedures of the Town of Oak Bluffs on this the _____ day of _____ (month), 20____, and agrees to abide by all policies and procedures contained herein.

Inclusive in the policies:

- Sexual Harassment
- Harassment and Non-Discrimination
- Workplace Violence
- Drug-Free Workplace\
- Code of Conduct
- Pregnant Workers Fairness Act

Signature

Date

Print Name