

# **FALMOUTH HOUSING AUTHORITY**

## **POLICY PROHIBITING SEXUAL HARASSMENT IN OUR WORKPLACE**

Falmouth Housing Authority expects all employees to conduct themselves in a professional manner and to always treat co-workers, clients, customers, and business associates with respect. Harassment of any type undermines the victim's sense of personal dignity as well as our focus on teamwork.

Sexual harassment of employees occurring in the workplace or in other settings in which employees find themselves in connection with their employment is unlawful and will not be tolerated. Further, any retaliation against an individual who complains about sexual harassment or cooperates with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct should be handled, if encountered by employees.

This policy applies to all phases of employment, including but not limited to recruiting, testing, hiring, promoting, demoting, transferring, laying off, terminating, paying, granting benefits and training.

### **Definition**

Sexual harassment is a form of illegal sexual discrimination that includes unwanted sexual advances, or visual, verbal or physical conduct of a sexual nature. This definition encompasses many forms of offensive behavior and includes gender-based harassment of a person of the same sex as the harasser.

Sexually harassing behavior includes unwelcome conduct such as: sexual advances, requests for sexual favors, offensive touching, or other verbal, visual or physical conduct of a sexual nature. Such conduct may constitute sexual harassment when it:

1. Is made explicitly or implicitly;
2. Is made an explicit or implicit condition of employment;
3. Is used as the basis for employment decisions;
4. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
5. Has the purpose or effect of creating an intimidating, hostile or offensive working environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as a favorable review, pay increase, promotion, training, increased benefits, favorable hours or threats concerning continued employment constitutes sexual harassment. In addition, any unwelcome sexually oriented conduct, intended or not, that has the effect of creating a workplace environment that is hostile, offensive, intimidating or humiliating to male or female workers may also constitute sexual harassment.

While it is not possible to list all of the additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, may constitute sexual harassment depending upon the circumstances, including the severity of the conduct and its pervasiveness:

1. Offering employment benefits in exchange for sexual favors;
2. Sexual advances or propositions, whether or not they involve physical contact;
3. Making or threatening reprisals after a negative response to sexual advances;
4. Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
5. Leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
6. Inquiries into one's sexual experiences;
7. Discussion of one's sexual activities;
8. Repeated sexual flirtations, advances or propositions;
9. Verbal abuse of a sexual nature, making or using derogatory comments, epithets, slurs, jokes, sexually related comments, graphic or degrading comments about an employee's appearance, sexually degrading words used to describe an individual, suggestive or obscene notes, emails, letters or invitations;
10. Displaying sexually suggestive objects or pictures including cartoons, posters and vulgar email messages; and/or
11. Any uninvited physical contact or touching, such as patting, pinching, assault, blocking movements or repeated brushing against another's body.

Such conduct may constitute sexual harassment regardless of whether the conduct is between members of management, between management and staff employees, between staff employees, or directed at employees by non-employees conducting business with Falmouth Housing Authority, regardless of gender.

Falmouth Housing Authority will conduct a prompt investigation as confidentially as possible under the circumstances. Employees who raise concerns and make reports in good faith can do so without fear of reprisal.

### **Harassment by Non-Employees**

Falmouth Housing Authority will also endeavor to protect employees, to the extent possible, from reported harassment by non-employees in the workplace, including customers, clients and suppliers.

### **Electronic Harassment**

All harassment (electronic or otherwise) based on sex is prohibited, and this policy and the definition contained within it apply equally to any harassment that takes place via electronic means. Using electronic communication, including but not limited to, sending sexually suggestive/explicit messages and pictures via email, text messages, and other social networking

sites is strictly prohibited, regardless of whether the messages are sent during or outside of working time, inside or outside of the office. Dissemination of sexually explicit voicemail, email, graphics, downloaded material or websites in the workplace is specifically prohibited.

### **Affirmative Duty to Report**

All employees of Falmouth Housing Authority have an affirmative duty to report any harassment that he/she has either suffered or observed. In order to help ensure a harassment-free environment, Falmouth Housing Authority asks that all complaints of sexual harassment be reported within 90 days, so that a rapid response and remediation may occur. All employees have an obligation to cooperate with Falmouth Housing Authority in enforcing this policy and investigating and remedying complaints.

While this policy sets forth our intent to provide a safe workplace free of sexual harassment, the policy is not intended to limit management's authority to discipline or take remedial action for conduct, which we deem unacceptable, regardless of whether that conduct satisfies the legal definition of sexual harassment.

### **Non-Retaliation Policy**

Any employee who files a complaint of harassment or other discrimination in good faith will not be adversely affected in terms and conditions of employment and will not be retaliated against or discharged because of the complaint. Additionally, Falmouth Housing Authority will not tolerate retaliation against any employee who, in good faith, cooperates in the investigation of a complaint. Employees at all levels of Falmouth Housing Authority should understand the importance of reporting complaints of harassment, and communicating those complaints to the appropriate level of management. It is the practice of Falmouth Housing Authority to protect complainants and witnesses from any retaliation from any source as a result of initiating or supporting a sexual harassment allegation. Anyone who engages in such retaliatory behavior will be subject to appropriate discipline, up to and including termination.

### **Frivolous Claims**

Falmouth Housing Authority has the right to take appropriate disciplinary actions against an employee who makes a false or bad faith claim of sexual harassment. In addition, to the extent that any willfully false claim constitutes resistance to or interference with the work of the Massachusetts Commission Against Discrimination, the person filing such a complaint may be subject to civil and/or criminal penalties.

### **Consensual Romantic or Sexual Relationships**

Falmouth Housing Authority strongly discourages romantic or sexual relationships between a manager or other supervisory employee and his/her staff (an employee who reports directly or indirectly to that person) because such relationships tend to create compromising conflicts of interest or the appearance of such conflicts. In addition, such a relationship may give rise to the perception by others that there is favoritism or bias in employment decisions affecting the staff employee. Moreover, given the uneven balance of power within such relationships, consent by the staff member is suspect and may be viewed by others or, at a later date, by the staff

member him or herself as having been given as the result of coercion or intimidation. The atmosphere created by such appearances of bias, favoritism, intimidation, coercion or exploitation undermines the spirit of trust and mutual respect that is essential to a healthy work environment. If there is such a relationship, the parties need to be aware that one or both may be moved to a different department, or other actions may be taken at the discretion of Falmouth Housing Authority.

If any supervisory employee of Falmouth Housing Authority enters into a consensual relationship that is romantic or sexual in nature with a member of his/her staff (an employee who reports directly or indirectly to him or her), or another subordinate member of the same department, the parties must notify the Executive Director or other appropriate corporate officer. Because of potential issues regarding quid pro quo harassment, Falmouth Housing Authority has made reporting mandatory. This requirement does not apply to employees who do not work in the same department or to parties who do not supervise or otherwise manage responsibilities over the other.

Once the relationship is made known to Falmouth Housing Authority, Falmouth Housing Authority will review the situation with the Executive Director in light of all the facts (reporting relationship between the parties, effect on co-workers, job titles of the parties, etc.) and will determine whether one or both parties need to be moved to another job or department. If it is determined that one party must be moved, and there are jobs in other departments available for both, the parties may decide who will be the one to apply for a new position. In all other situations, Falmouth Housing Authority will make the determination based on what will be least disruptive to the organization as a whole. If it is determined that one or both parties must be moved but no other jobs are available for either party, the parties will be given the option of terminating their relationship or resigning.

### **Procedure for Complaints of Sexual Harassment and Investigation**

1. Any employee who feels that he/she is the subject of sexual harassment or has witnessed sexual harassment should immediately report the incident, verbally or in writing. An employee who wishes to report a possible incident of sexual harassment or other unlawful harassment or discrimination may do so in one of several ways. The report can be submitted directly to the Executive Director and/or the Chairperson of the Board of Commissioners. These individuals are also available to discuss any concerns you may have and/or provide information to you about our policy on sexual harassment prevention and our complaint process. All supervisory employees are required to report any complaints of sexual harassment to the Executive Director and/or the Chairperson of the Board of Commissioners.
2. The Executive Director and/or Chairperson of the Board of Commissioners shall immediately and thoroughly investigate all complaints of sexual harassment. The investigation may be performed internally or by an impartial third party from outside Falmouth Housing Authority. In either case it will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances, and in a manner consistent with a fair and full investigation.

3. Because we consider sexual harassment to be a serious matter, if it is determined that inappropriate conduct has been committed by one of our employees, we will act promptly to eliminate the offensive conduct and initiate disciplinary action where it is appropriate. Such action may range from counseling to termination of employment.
4. In addition to filing a complaint under this policy and procedure, employees who believe they have been subjected to sexual harassment may file a formal complaint with appropriate state and federal government agencies listed below. Using Falmouth Housing Authority's complaint process does not prohibit employees from filing a complaint with these agencies. Each agency has a short period for filing a claim, and time limits for filing complaints are included below. Employees must exhaust their administrative remedies prior to filing a civil action.
5. This policy shall be distributed to each employee annually. This policy will also be provided to all new employees when they are hired. Additionally, a copy of this policy shall be available in the Executive Director's office at all times.

We trust that all managers, supervisory personnel and employees will continue to act responsibly to establish a pleasant working environment free of sexual harassment and discrimination of any type.

**STATE AND FEDERAL AGENCY ADDRESSES:      TIME PERIOD FOR FILING A CLAIM:**

**The United States Equal Employment Opportunity Commission (EEOC)**      **300 DAYS**  
 John F. Kennedy Federal Building  
 475 Government Center  
 Boston, MA 02203  
 (800) 669-4000

**Massachusetts Commission Against Discrimination (MCAD)**      **300 DAYS**  
 One Ashburton Place, Room 601  
 Boston, MA 02108  
 (617) 727-3990

**Massachusetts Commission Against Discrimination (MCAD)**      **300 DAYS**  
 436 Dwight Street, Second Floor, Room 220  
 Springfield, MA 01103  
 (413) 739-2145

**Massachusetts Commission Against  
Discrimination (MCAD)**

**300 DAYS**

Worcester City Hall  
455 Main Street, Room 100  
Worcester, MA 06108  
(508) 799-8010

**Massachusetts Commission Against  
Discrimination (MCAD)**

**300 DAYS**

New Bedford Office  
800 Purchase St., Room 501  
New Bedford, MA 02740  
(508) 990-2390

***If you have any questions regarding Falmouth Housing Authority's policy against harassment or wish to report an incident, contact the Executive Director immediately.***