

TOWN OF WESTVILLE

Harassment Prevention
Policies & Procedures

Town of Westville

POLICY AGAINST DISCRIMINATION AND HARASSMENT

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POLICY

SECTION 1: PURPOSE

Town of Westville believes in the dignity of the individual and recognized the rights of all people to equal employment opportunities in the workplace. In this regard, Town of Westville is committed to a policy of protecting and safeguarding the rights and opportunities of all people to seek, obtain and hold employment without subjugation to harassment or discrimination in the workplace. It is the Town of Westville's policy to provide an employment environment free from harassment and discrimination based on race, color, gender, religion, religious creed, sex, marital status, age, national origin or ancestry, physical or mental disability, genetic information, military or veteran status, sexual orientation, gender identity, gender expression, pregnancy (including childbirth and related medical conditions, and including medical conditions related to lactation) citizenship or any other characteristics protected by applicable federal, state or local law.

- A. Scope of Policy** This policy applies to all Westville's employees and all personnel in a contractual or other business relationship with the Town of Westville including, for example, applicants, temporary or leased employees, interns (whether paid or unpaid), independent contractors, vendors, consultants, volunteers and visitors. Depending on the extent of Westville's exercise of control, this Policy may be applied to the conduct of non-employees with respect to unlawful harassment and/or discrimination of Westville's employees in the workplace. This Policy applies with equal force on Westville's property as it does at municipal sponsored events, programs, and activities that take place off Westville's premises.
- B. Policy Objectives** By adopting and publishing this Policy, it is the intention of the Town of Westville's Board to:
- (1) Notify employees about the types of conduct that constitute harassment and discrimination prohibited by this Policy;
 - (2) Inform employees about the complaint procedures established by the Westville Town Board that enable any employee who believes (s)he is the victim of harassment or discrimination to submit a complaint which will be investigated by the Town of Westville;
 - (3) Clearly advise all supervisory staff, administrators, and employees that harassment and discrimination is strictly prohibited and no such person possesses the authority to harass or discriminate; and
 - (4) Notify all employees that the Town of Westville has appointed a Compliance Office who is specifically designated to receive complaints and ensure compliance with this Policy.

NOTE: The names and office location of each Compliance Officer designated to receive and investigate complaints for the 2019-2020 year are listed below at the end of this Policy.

SECTION 2: DEFINITIONS

“Prohibited Discrimination of Employees”

Prohibited discrimination of employees can take the form of any adverse employment action against an employee, by either a Town of Westville employee or official or a third party engaged in activities sponsored by the municipality which is based upon the employee’s protected characteristic. Prohibited discrimination of employees also includes harassment based on a protected characteristic even where there is no tangible impact upon the employee’s employment opportunities and/or employment benefits. The phrase “prohibited discrimination” as used in this Policy includes all forms of prohibited discrimination and harassment based on a protected characteristic, including “Sexual Harassment” as defined below.

“Harassment”

Harassment is strictly prohibited and includes, but is not limited to:

- (1) Conduct that unreasonably interferes with the ability of any employee or non-employee to perform their expected job duties. This includes extending welcome or unwelcome attention and/or hostility to someone based on a protected characteristic, including that which is sexual in nature, which thereby reduces personal productivity or time available to work at assigned tasks.
- (2) Conduct which creates an intimidating, hostile, or offensive work environment. This includes unwelcome or unwanted conversations, suggestions, requests, demands, physical contacts or attentions that are sexual in nature or based upon any other protected characteristic.
- (3) Rejection or submission to sexual favors as the implicit or explicit basis for decisions concerning one’s employment, assignment, advancement, compensation, or any other condition of employment.
- (4) Slurs, jokes, or other verbal, visual, or physical conduct relating to an individual’s race, color, gender/sex, religion, national origin, age, disability, sexual orientation, marital/family status, or any other characteristic protected by applicable state, local or federal law.

“Sexual Harassment”

Sexual harassment is strictly prohibited including, but not limited to, inappropriate forms of sex-based or sexual behavior including, but not limited to, unwelcome sexual advances, requests for sexual favors, and all other verbal or physical conduct of a sexual or otherwise offensive nature, even if an employee suffers no adverse consequences and/or is otherwise treated well, as long as the actions of the harasser are found to be offensive, including where:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
- (2) Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual (e.g., promotion, transfer, demotion, termination); or
- (3) Such gender-based conduct has the purpose or effect of unreasonably interfering with an individual’s work performance, or of creating an intimidating, hostile or offensive working environment.

The foregoing includes offensive comments, jokes, innuendoes or other statements of a sexual or gender-based nature as well as favoritism between a supervisor and subordinate based on an intimate/sexual relationship or desire for the same.

Specific forms of behavior the Town of Westville considers harassment or sexual harassment are set forth below. Every conceivable example cannot be delineated herein, and thus the descriptions below should not be interpreted in any way as being all-inclusive.

- **Verbal:** Abusive verbal language includes jokes, comments, teasing or threats related to an employee’s protected characteristic, sexual activity and/or body parts whether or not said in that person’s presence including, but not limited to: sexual innuendos; slurs; suggestive, derogatory, or insulting comments or sounds; whistling; jokes; propositions; threats; comments on a person’s appearance that make the person feel uncomfortable because of his or her protected characteristic; continuing to ask someone for dates or to meet after work after the person has made it clear that he or she does not want to go; comments about an employee’s anatomy or protected characteristic that are unwelcome, unreasonably interfere with an employee’s work performance, or create an intimidating, hostile or offensive work environment; and unwelcome advances or demands based on someone’s protected characteristic.

- **Nonverbal:** Abusive written language showing or displaying pornographic or sexually explicit objects or pictures; graphic commentaries based on a protected characteristic; derogatory cartoons or caricatures; luring or obscene gestures in the workplace; staring at a person's body in a sexually suggestive manner; gestures or motions based on a protected characteristic; sending material through the Town of Westville's e-mail system or other electronic communication devices (e.g. voice mail) or using the Town of Westville's mail or computers to view material that is demeaning or derogatory based on one's protected characteristic.
- **Physical:** Unwelcome physical conduct, including but not limited to: hitting, pushing, shoving, slapping, petting, pinching, grabbing, holding, hugging, kissing, tickling, massaging, displaying private body parts, coerced sexual intercourse, assault, persistent brushing up against a person's body, unnecessary touching and flashing or other unwelcome physical conduct.

While a single incident of these types of behavior may not create a hostile learning environment, if such behavior is severe, persistent or pervasive, or if submission to such conduct is made either explicitly or implicitly a term or condition of employment or receipt of employment benefits, such conduct constitutes prohibited harassment.

SECTION 3: POLICY

Town of Westville prohibits harassment and discrimination based on any characteristic protected by applicable law and will not tolerate any form of unlawful discrimination or harassment. Town of Westville will take all steps necessary to prevent and stop the occurrence of unlawful discrimination and/or harassment in the workplace.

All employees, including but not limited to, Town of Westville's officials and supervisory personnel, are responsible for ensuring a work environment free from prohibited harassment and discrimination. All employees will be held responsible and accountable for avoiding or eliminating inappropriate conduct that may give rise to a claim of harassment or discrimination. Employees are encouraged to report violations to one of the Compliance Officers listed in *Section 10* of this Policy in accordance with the Complaint Procedure set forth in this Policy. Officials, managers and supervisors must take immediate and appropriate corrective action when suspected instances of prohibited harassment and/or discrimination come to their attention to assure compliance with this Policy as well as report the suspected misconduct to Human Resources. Furthermore, if any employee believes that any member of management has violated this policy or has not properly responded to and/or handled a report or concerns of discrimination or harassment, the employee should immediately contact Human Resources.

Each employee is assured pursuant to *Section 6* of this Policy, that retaliation against an individual who makes a complaint or report under this Policy is absolutely prohibited and constitutes, in and of itself, a violation of this Policy. Employees who engage in retaliation against any employee for making a good faith complaint of harassment or discrimination, for opposing in good faith any practices forbidden by applicable anti-discrimination laws or for filing a good faith complaint with, or otherwise participating in any manner in an internal workplace investigation or an external investigation, proceeding or hearing conducted by any federal or state agency charged with enforcing employment discrimination laws shall be subject to discipline, up to and including termination of employment. Any employees who believe he/she has been retaliated against in violation of this policy should report violations to one of the Compliance Officers listed in *Section 10* of this Policy in accordance with the Complaint Procedure set forth in this Policy.

Any questions regarding the scope or application of this Policy should be directed to one of the Compliance Officers listed in *Section 10* of this Policy.

SECTION 4: POLICY ENFORCEMENT

A. Complaint Procedure for Employees

i. Notification Procedure

Prompt reporting of complaints or concerns is required so that timely and constructive action can be taken before relationships become strained. Reporting of all perceived incidents of prohibited discrimination and/or harassment is essential, regardless of the offender's identity or position. An employee or other individual who feels aggrieved because of harassment or discrimination shall contact his or her supervisor or a Compliance Officer listed in *Section 10* of this Policy, or another administrator.

ii. Making a Complaint

If the complainant prefers, s/he may report the matter directly to her/his supervisor. If the complainant feels uncomfortable reporting the harassment to her/his supervisor, s/he should immediately report the matter to any other member of management. Employees who work during off-hours are encouraged to contact their supervisors or any member of management at home if these individuals do not work during the employees shift. Town of Westville will not tolerate violations of this policy and strongly encourages reporting of suspected harassment or discrimination as soon as it occurs.

B. Time for Reporting a Complaint

Prompt reporting of all complaints is strongly encouraged. All employees should be aware that appropriate resolution of complaints and effective remedial action oftentimes is possible only when complaints are promptly filed.

C. Confidentiality and Privacy

The Town of Westville shall keep complaints as confidential as is consistent with a thorough investigation, applicable collective bargaining agreements, and other laws and regulations regarding employees. To the extent complaints made under this Policy implicate criminal conduct, the Town of Westville may be required by law to contact and cooperate with the appropriate law enforcement authorities.

D. Acknowledgement of Complaints

Complainants are expected to cooperate with the Town of Westville’s investigation procedures by providing all relevant information relating to the complaint in writing, as are other supervisory and non-supervisory employees having relevant or related knowledge or information.

SECTION 5: INVESTIGATION AND REMEDY

When the Town of Westville receives allegations of misconduct, it will conduct a fair, timely, and thorough investigation that provides all parties appropriate due process and reaches reasonable conclusions based on the evidence collected. If, at the end of the investigation, misconduct is found, appropriate remedial measures (including discipline) shall be taken including, but not limited to, termination from employment.

SECTION 6: PROHIBITION AGAINST RETALIATION AND ABUSE OF THE POLICY

Retaliation is strictly prohibited by this Policy and by law against anyone for making a good faith complaint of harassment or discrimination, for opposing in good faith any practices forbidden by applicable anti-discrimination laws or for filing a good faith complaint with, or otherwise participating in any manner in an internal workplace investigation or an external investigation, proceeding or hearing conducted by any federal or state agency charged with enforcing employment discrimination laws.

Complaints of retaliation should be brought directly to a Compliance Officer, or another administrator. Such complaints will be promptly investigated. If retaliation is found, the person retaliating will be subject to corrective action up to and including termination from employment, or in the case of a non-employee, an appropriate remedy up to and including termination of the business relationship.

SECTION 7: APPEALS

Any complainant or accused party who wishes to appeal the conclusion which the Town of Westville reached in investigating a written complaint filed under this Policy, may do so within ten (10) days of receipt of the appellant’s notification of the investigation outcome. Untimely submissions shall not receive consideration. Such appeal must be made in writing to

the Town of Westville. The appellant shall be entitled to present evidence as to why the conclusion was flawed, improper, or otherwise not supported by the evidence. The Town of Westville's consideration and review of any such appeal shall be conducted confidentially in executive session. Following a review of that evidence, as well as the information obtained in the investigation process and conclusions derived therefrom, the Town of Westville, or its designee, shall render a decision. The Town of Westville's decision shall be final. The appellant shall be notified of the decision in writing.

Nothing set forth in the Appeal Process above shall be construed to in any way confer upon either the complainant(s) or the person(s) accused of violating this policy any right to appeal the Town of Westville's determination as to appropriate disciplinary and/or corrective action to be taken on meritorious complaints. In this regard, the Town of Westville at all times retains sole discretion to determine the appropriate disciplinary and/or corrective action to be taken with regard to a meritorious complaint.

SECTION 8: RECORD KEEPING

The Town of Westville shall maintain a written record of all complaints of discrimination and/or harassment for a period of at least three years. The Town of Westville shall also document the steps taken with regard to investigations, as well as conclusions reached and remedial action taken, if any. The Town of Westville shall also maintain these documents for, at a minimum, three years.

The Town of Westville's records regarding alleged discrimination shall be maintained separate and apart from personnel records.

SECTION 9: QUESTIONS

Any questions by employees of the Town of Westville about this Policy or potential harassment or discrimination should be brought to the attention of one of the Town of Westville's Compliance Officers or the chief elected official, HR Manager or Municipal Manager. The names, addresses and telephone numbers of the Town of Westville's Compliance Officers are listed in *Section 10* of this Policy.

SECTION 10: COMPLIANCE OFFICERS

<u>Rodrique Lauzon</u> Name	<u>Westville Town Hall</u> Office Location
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<u>(518) 483-3772</u> Telephone Number	<u>936 County Route 19, Constable, NY 12926</u> Mail Box Location
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<u>Ann F. Brady</u> Name	<u>Westville Town Hall</u> Office Location
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<u>(518) 358-0026 or (518) 358-9047</u> Telephone Number	<u>936 County Route 19, Constable, NY 12926</u> Mail Box Location
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[Add others as needed]

SECTION 11: EFFECTIVE DATE AND POLICY DISSEMINATION

The effective date of this Policy shall be January 14, 2019. The Chief Municipal Officer shall ensure that this Policy is adequately disseminated and made available to all employees of the Town of Westville. This Policy shall be distributed at the beginning of each year. In addition, copies of this Policy and Complaint Form shall be maintained in the office of each Compliance Officer and HR Manager as well as the Town of Westville’s Policy Book that is available at the Town Clerk’s Office.

Upon the effective date of this Policy, the provisions of this Policy shall supersede and replace all prior municipal policies and regulations regarding employee discrimination and harassment, and related complaint procedures with the exception of the “Town of Westville’s Policy Against Sex Discrimination and Sexual Harassment.”

**ACKNOWLEDGMENT OF RECEIPT OF THE TOWN OF WESTVILLE'S
HARASSMENT PREVENTION POLICY AND TRAINING**

From:

To:

Subject:

The Town of Westville is committed to a policy of protecting and safeguarding the rights and opportunities of all people to seek, obtain and hold employment without being subjected to harassment or discrimination in the workplace. It is the Town of Westville's policy to provide a workplace environment free from harassment and discriminatory practices.

The Town of Westville has established a Harassment and Discrimination Prevention Policy. The plan must be distributed to all officials and employees in the municipality. The Town of Westville will conduct an annual (biannual) training on this policy.

Please sign the attached acknowledgment that you have received a copy of the policy at your annual (biannual) training.

Thank you for your assistance in this matter. If you have any further questions regarding this Policy, feel free to contact _____.

**ACKNOWLEDGMENT OF RECEIPT OF TOWN OF WESTVILLE'S HARASSMENT
PREVENTION POLICY AND TRAINING**

I, _____, have received the Town of Westville's Harassment Prevention Policy adopted on January 14, 2019. This Policy has been reviewed with me and I have had the opportunity to ask questions regarding the Policy. I have also received annual training on this Policy.

Signature of Employee

Date of training and receipt of Policy

FORMS

FORM LETTER TO ALLEGED HARASSER

Dear _____:

We are in receipt of a complaint from [identify complainant] concerning an allegation of (harassment/discrimination) involving yourself. Please note that we take allegations of (harassment/discrimination) seriously, and are committed to providing a workplace free from all forms of (harassment/discrimination). To this end, we will undertake an investigation into the subject allegation(s) in a fair, balanced, comprehensive and expeditious manner. Please note that it is improper for any employee to retaliate against another whom, in good faith, reports an allegation of (harassment/discrimination), and any form of retaliation against [complainant] is prohibited. You are therefore accordingly instructed not to retaliate, in any way, against the complainant, any witness, or anyone else involved in our investigation.

We thank you for your cooperation. Should you have any questions or concerns about this matter, please contact [the individual conducting the investigation].

Very Truly Yours,

[Investigator/Municipal officer]

Signed:

[Alleged Harasser]

FORM LETTER TO COMPLAINANT

Dear _____:

We are in receipt of your complaint concerning your allegation of (harassment/discrimination) on the part of [identify alleged individual(s)]. Please note that we take your allegation of (harassment/discrimination) seriously, and are committed to providing a workplace free from all forms of (harassment/discrimination). To this end, we will undertake to investigate your allegation in a fair, balanced, comprehensive and expeditious manner. Please note that it is improper for any employee to retaliate against another whom, in good faith, reports an allegation of (harassment/discrimination). Accordingly, if you believe that you have retaliated against by anyone for reporting the alleged (harassment/discrimination), it is imperative that you notify [the individual conducting the investigation] of same immediately so that the conduct can be investigated and addressed.

Should you have any questions or concerns about this matter, please contact [the individual conducting the investigation].

Very truly yours,

[Investigator/Municipal Officer]

Signed:

[Complainant]

FORM LETTER TO WITNESS

Dear _____:

We are in receipt of a complaint from (identify complainant) concerning an allegation of (harassment/discrimination) involving another employee. Please note that we take allegations of (harassment/discrimination) seriously, and are committed to providing a workplace free from all forms of (harassment/discrimination). To this end, we will undertake an investigation into the subject allegation(s) in a fair, balanced, comprehensive and expeditious manner. Please note that it is improper for any employee to retaliate against another whom, in good faith, reports an allege(harassment/discrimination). You are therefore accordingly instructed not to retaliate, in any way, against the complainant, any witness, or anyone else involved in our investigation. Further, if you believe that you have been retaliated against for participating in our investigation, it is imperative that you report any such retaliation to us promptly, so that same may be appropriately addressed.

We thank you for your cooperation. Should you have any questions or concerns about this matter, please contact [the individual conducting the investigation].

Very truly yours,

[Investigator/Municipal Officer]

Signed:

[Complainant]

INTERNAL COMPLAINT FORM

Name and Position of Complainant:

Name(s) of Alleged Harasser/Discriminator:

Date(s) and Place(s) of Incident(s):

Description of Misconduct:

Name(s) of Witness(es) (if any):

If the incident has been reported before, state when and to whom it was reported, what the resolution was, and the reason(s) for your dissatisfaction:

Signature of Complainant

Date

MEMO INITIATING AN INVESTIGATION

MEMO

Date:

To:

From:

Subject: Investigation Commencing

In the next several days you may be contacted by [Investigator's Name] to participate in an investigation of a complaint made pursuant to the Town of Westville's Policy that prohibits harassment. The investigation is an important process for the Town of Westville and your cooperation is vital to its success. Our municipality expects that you will cooperate fully and give accurate information in response to the investigator's questions. All interviews will be conducted voluntarily and in a way that protects the privacy of everyone involved to the maximum extent consistent with conducting a thorough investigation.

Thank you in advance for your cooperation.