



# Town of Weston

## BOARD AND COMMITTEE HANDBOOK

(Updated 2013)

**Town of Weston**  
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|  |   |
|--|---|
| <b><u>I. INTRODUCTION</u></b>                          | 1 |
| <b><u>II. BECOMING A COMMITTEE OR BOARD MEMBER</u></b> | 1 |
| A. ELECTED OR APPOINTED?                               | 1 |
| B. RUNNING FOR OFFICE                                  | 2 |
| C. SWEARING IN   | 2 |
| D. RESIGNATION FROM OFFICE                             | 3 |
| E. APPOINTED BY THE BOARD OF SELECTMEN                 | 3 |
| <b><u>III. LEGAL RESPONSIBILITIES OF MEMBERS</u></b>   | 3 |
| A. CONFLICT OF INTEREST                                | 3 |
| B. CAMPAIGN AND POLITICAL FINANCE                      | 4 |
| C. USE OF TOWN FUNDS FOR BALLOT QUESTIONS              | 5 |
| D. SETTING FEES  | 6 |
| E. DISCRIMINATION                                      | 6 |
| F. DISABILITY ACCOMMODATION                            | 6 |
| G. INDEMNIFICATION                                     | 7 |
| <b><u>IV. COMMITTEE ORGANIZATION</u></b>               | 7 |
| A. OFFICERS  | 7 |
| B. ESTABLISHING GOALS, POLICIES AND PROCEDURES         | 7 |
| C. BUDGET AND EXPENDITURE OF FUNDS                     | 8 |
| D. SUB-COMMITTEES, SPECIAL COMMITTEES & TASK FORCES    | 9 |
| E. USE OF TOWN COUNSEL                                 | 9 |

|  |    |
|--|----|
| <b><u>V. MEETINGS AND HEARINGS</u></b> | 10 |
| What Constitutes a Deliberation        | 10 |
| Remote Participation                   | 11 |
| A. LOGISTICS                           | 11 |
| (a) Calling a meeting                  | 11 |
| (b) Canceling a meeting                | 12 |
| (c) Arranging a location               | 12 |
| B. CONDUCTING A MEETING                | 12 |
| (a) The Massachusetts Open Meeting law | 12 |
| (b) Quorum                             | 13 |
| (c) Agenda                             | 13 |
| (d) Minutes                            | 14 |
| (e) Conducting a meeting               | 14 |
| (f) Disruption                         | 15 |
| (g) Executive Session                  | 15 |
| C. HEARINGS                            | 16 |
| (a) Conducting a hearing               | 17 |
| (b) Adjudicatory hearings              | 17 |
| <b><u>VI. COMMUNICATIONS</u></b>       | 18 |
| A. ELECTRONIC COMMUNICATIONS           | 18 |
| (a) Town Website                       | 18 |
| (b) Email Subscription Service         | 18 |
| (b) Facebook and Twitter               | 18 |
| B. COMMUNICATING WITH THE PUBLIC       | 19 |
| C. COMMUNICATING WITH THE PRESS        | 19 |
| D. ANNUAL TOWN REPORT                  | 20 |

|  |    |
|--|----|
| <b><u>VII. PUBLIC RECORDS</u></b>            | 20 |
| A. E-MAIL                                    | 22 |
| B. PUBLIC ACCESS TO RECORDS                  | 22 |
| C. FEES                                      | 22 |
| D. CONFIDENTIALITY                           | 23 |
| <b><u>VIII. ADMINISTRATION</u></b>           | 23 |
| A. STATIONERY                                | 23 |
| B. USE OF PHOTOCOPYING EQUIPMENT             | 23 |
| C. MAILING                                   | 23 |
| D. CLERICAL ASSISTANCE                       | 23 |
| E. EXPENDITURE OF FUNDS                      | 23 |
| F. REQUESTS FOR TOWN MEETING ARTICLES        | 24 |
| G. PERSONNEL MATTERS                         | 24 |
| <b><u>IX. WESTON CONTACT INFORMATION</u></b> | 25 |
| <b><u>X. SELECTED REFERENCES</u></b>         | 25 |
| ON-LINE                                      | 25 |
| PRINT  | 25 |
| <b><u>APPENDIX</u></b>                       |    |
| THE TEN PURPOSES FOR EXECUTIVE SESSION       | 26 |
| INTRODUCTION TO ROBERT’S RULES OF ORDER      | 30 |
| MEETING POSTING TEMPLATE                     | 34 |
| LEGAL HOLIDAYS OBSERVED BY TOWN DEPARTMENTS  | 35 |

|                                       |    |
|---------------------------------------|----|
| EMPLOYEE POLICY: PROFESSIONAL CONDUCT | 36 |
| EMPLOYEE POLICY: SEXUAL HARASSMENT    | 37 |
| EMPLOYEE POLICY: HARASSMENT           | 42 |
| EMPLOYEE POLICY: NON-DISCRIMINATION   | 45 |
| EMPLOYEE POLICY: WORKPLACE VIOLENCE   | 50 |

## **I. INTRODUCTION**

In Weston, as in most municipalities in Massachusetts, local government is based on strong citizen participation. The Town of Weston is fortunate to have the care and dedication of so many of its citizens who volunteer their time in town service on a host of elected and appointed boards and committees that meet regularly throughout the year.

This handbook is intended to provide a guide for many of the aspects of serving on Town boards and committees. While it will be especially useful to newly elected or appointed officials, it also provides a reference for experienced officials who may face new issues in the conduct of the Town's business.

The information in the handbook is for the most part in summary form, with selected supplementary material. It cannot, however, provide authoritative answers to every question. Much additional information about Weston and about town government can be found in the selected references provided, and on the Weston Town Website at:

[www.weston.org](http://www.weston.org).

The Town Manager or Assistant Town Manager may be consulted for additional assistance.

## **II. BECOMING A COMMITTEE OR BOARD MEMBER**

### **A. ELECTED OR APPOINTED?**

Under Massachusetts law, many committees or boards can either be elected or appointed; this is generally a policy decision for Town Meeting. In Weston, the Board of Selectmen, Board of Assessors, School Committee, Recreation Commission, Planning Board, Board of Health, Board of Library Trustees, and Commissioners of Trust Funds are elected by the voters. Others are appointed, either by the Board of Selectmen, School Committee, or by the Moderator.

Candidates for elected office must be town residents, eighteen years of age or older, and registered voters in Weston. Appointed members, by contrast, need not be town residents, eighteen years of age or older, or registered voters in the Town. In addition, U.S. citizenship is not a prerequisite.

For those positions that by law can be either elected or appointed, there has been much debate about which method of selection is best. Capable people have served their towns in various offices under either method of selection. Municipalities that choose to elect these positions generally prefer to have the positions directly accountable to the voters and independent of any appointing authority. Those that choose to appoint prefer, generally, to be able to recruit individuals with the required qualifications and not be limited to those who are willing to run for office.

## **B. RUNNING FOR OFFICE**

In Weston, candidates for office are typically nominated at a Town Caucus, an open meeting of all registered voters called by the Board of Selectmen, usually held in March. Nominations, duly seconded, are made from the floor, and the two candidates for each open position receiving the largest number of votes are designated on the annual election ballot as "Caucus Nominees". If there is only one nominee for an office, that person will automatically be the Caucus Nominee. Each Caucus Nominee must receive a minimum of 8% of the votes cast.

If not nominated at a Town Caucus, any qualified candidate may have his or her name placed on the ballot by filing nomination papers, available from the Town Clerk's office, bearing signatures of at least 50 registered Weston voters. The nomination papers must be filed with the Board of Registrars of Voters at least 42 days before the Town Election and with the Town Clerk (after verification of signatures by the Registrars) at least 35 days before the Town Election.

All candidates for elected office must keep records of any monies spent, and of any campaign donations received. A series of Campaign Finance Reports must be filed with the Town Clerk. Forms for this report are mailed by the Town Clerk's office to all candidates prior to the filing deadlines. Candidates who fail to complete and file these Campaign Finance Reports are subject by law to monetary penalties.

Detailed information for candidates as well as downloadable forms may be found online at: [www.state.ma.us/ocpf](http://www.state.ma.us/ocpf)

## **C. SWEARING IN**

Appointed board and committee members receive written notification of their appointment from their appointing authority, while elected members receive formal notification of election results from the Town Clerk's office. Prior to serving on any board or committee, newly elected and appointed board and committee members must be sworn in to office.

Typically, in Weston, the Town Clerk is available immediately after the close of Annual Town Meeting to swear in new members. Alternatively, new members may make arrangements with the Town Clerk, at (781) 786-5010, to be sworn in to office at a mutually convenient time.

When a member is sworn in to office, that person will be asked by the Town Clerk to sign the Weston Town Record. The member will be provided with reference materials on the Massachusetts Open Meeting and State Conflict of Interest Laws, and must sign an acknowledgment of receipt. Information on these laws is also provided in this handbook as well as information about an online Ethics Commission test members will need to take and pass prior to taking the oath of office. (Information about the test can be found in Section III of this handbook, *Legal Responsibilities of Members.*)

#### **D. RESIGNATION FROM OFFICE**

An **elected** town officer who chooses not to run for re-election does not have a legal requirement to notify the Town Clerk or take any other action. However, in the interest of providing new candidates sufficient time to seek election to the position, it is highly desirable that such persons inform the Town Clerk, and the *Town Crier* and *Weston Patch*, so the incumbent's intention not to run can be disseminated. Equally important is to provide notice to those committees, boards and civic groups whose members might be likely candidates.

An **appointed** town officer who does not wish to be re-appointed at the end of a term should notify the chair of the committee on which he or she is serving as well as the appointing authority (Board of Selectmen, Moderator, etc.)

A town officer, whether elected or appointed, who resigns before the end of his or her term must do so in writing to the Town Clerk, to the chair of the committee on which the officer is serving, and if appointed, to the appointing authority.

#### **E. BOARDS & COMMITTEES APPOINTED BY THE SELECTMEN**

1. The Board of Selectmen has adopted an appointment policy in order to encourage and broaden participation in town government by qualified and interested residents. The policy includes the following steps:
  - a. advertisement of vacancies on any board or committee;
  - b. solicitation of letters of interest;
  - c. review of letters of interest by current members of board or committee;
  - d. interview at an open meeting of all candidates to be considered; and
  - e. appointment at the next regularly scheduled meeting after interviews are conducted.
2. Members of boards or committees whose term is expiring will be asked if they wish to be reappointed. The Board of Selectmen, at its discretion, may choose not to reappoint a member or may request that a member apply for reappointment.

### **III. LEGAL RESPONSIBILITIES OF MEMBERS**

#### **A. CONFLICT OF INTEREST**

Massachusetts General Laws chapter 268A, the Massachusetts Conflict of Interest Law, sets forth basic ethical standards of conduct applicable to all "municipal employees". Under the law, the term "municipal employees" include any person performing services for or holding an office, position, employment or membership in any municipal agency, whether by election, appointment, or contract, and whether serving with or without compensation, on a full, regular, part-time, intermittent or consultant basis.

The appearance of a conflict will often be created when a public official or employee's personal interests or relationships overlap with that public official or employee's official

obligations. In summary, the law prohibits actions including, but not limited to, the following:

- requesting or accepting gifts in return for official acts;
- participating in any matter in which the person, their immediate family, or business, has an interest.
- having an interest in a contract made with the Town of Weston (with limited exception);
- working as a Weston town employee in any position under the supervision of the committee on which the individual is currently serving, or for 30 days after the individual's service on that committee is terminated;
- receiving compensation from, or acting as an agent for, any business or individual with regard to any particular item with which they are currently involved, or were involved, during the previous year;
- engaging in any activity that would impair their judgment with respect to Town of Weston business;
- using their official position for private gain; and
- acting as agent or attorney for anyone on any item in which they directly participated as a former committee member, and from appearing as agent or attorney before the Town or a Town board for two years on any matter which was under their official responsibility as a committee member.

A summary of the Massachusetts Conflict of Interest Law and other educational information concerning the application of the law is available online at [www.state.mass.gov/ethics](http://www.state.mass.gov/ethics). If you read and understand the materials, but are still unclear whether or not your situation rises to a conflict of interest, you may talk to the Town Manager and decide whether it makes sense to call the "Attorney-of-the-Day" at the State Ethics Commission Legal Division at (617) 371-9500 or (888)485-4766.

Prior to being sworn in, public officials will need to be well versed in the Conflict of Interest Law and complete and pass an online training program. As indicated, significant educational resources, and the training program, are available at the State Ethics Commission website at <http://www.mass.gov/ethics>. A print out of the certification of successful completion of the program should be presented to the Town Clerk by appointed and elected officials and others meeting the definition of "municipal officials" upon taking oath of office. Currently, the training needs to be completed every two years.

## **B. CAMPAIGN AND POLITICAL FINANCE**

Massachusetts General Laws chapter 55 regulates political activity and solicitation of campaign funds by public employees. This chapter also sets forth the requirements for campaign contribution and expense reporting for candidates and political committees,

and for any person or group which spends more than \$50 for the purpose of promoting the election or defeat of a candidate or candidates.

Board and committee members should be aware that appointed municipal employees may not use their official authority directly or indirectly to: coerce, attempt to coerce, command, advise, or prevent any person or body to pay, lend, or contribute anything of value to any party candidate or political committee; solicit or accept funds or anything of value for any party, political committee, agency, person, or organization for political purposes, including using their homes for political fundraisers, selling tickets to events, or listing their name on fundraising materials; campaign for political office for themselves or others during normal working hours, including using office time or office facilities, such as copiers, computers, etc.; or wear political or campaign buttons while on official Town business.

Appointed municipal employees may contribute to the campaign committees for the nomination or election of any individual running for public office, or to any political action committee; serve as a member of a political organization or committee; volunteer for political candidates or committees on their own time; refuse to contribute to any political fund or render any political service, without any risk to their jobs or career growth; and hold elective office. Appointed municipal employees may not solicit or receive any gift or contribution for any political purpose, even for their own campaigns for elected office, although they may list their names on fundraising materials as part of the name of the political committee organized on their behalf.

### **C. USE OF TOWN FUNDS FOR BALLOT QUESTIONS**

Although municipalities are prohibited from using taxpayer money to influence the outcome of a ballot question, including Proposition 2 ½, so-called, overrides or debt exclusions, Town boards and committees may wish to communicate factual information on the subject to the voters.

Possible ways of disseminating information include:

- voting on a matter at an open meeting;
- sending a press release to the *Town Crier*, *Weston Patch* or other newspaper;
- speaking at community meetings sponsored by non-governmental groups, such as the League of Women Voters, or PTO,;
- providing copies of architectural drawings or other explanatory information, including making such materials available at public places, e.g., the Weston Public Library or Town Clerk's office; or
- Hosting or speaking at public or private forums on such matters, including informal gatherings.

More information on what constitutes the acceptable use of town funds is available from the Town Manager and on-line at <http://www.mass.gov/ocpf/>.

#### **D. SETTING FEES**

Under Massachusetts General Law chapter 40, §22F, any town board that issues a license, permit, certificate, or provides a service may fix reasonable fees or charges for the work performed. Among other legal tests, a fee is considered “reasonable” if it seeks to reimburse the Town for the actual cost to the Town of the work, including applicable overhead, rather than simply to raise revenue for the Town.

Some boards and committees are regularly responsible for establishing fees for specific Town services. Most commonly, this issue is relevant to the Board of Selectmen, School Committee, Recreation Commission, Library Trustees, Board of Health, and Planning Board, all of which have professional staff to assist them in this process. However, occasionally other boards may recommend establishing fees, in which case the chair should contact the Town Manager at (781) 786-5020 for assistance.

As with all service fees, the revenue anticipated to be generated is incorporated into the Town’s budget, which budget is subject to approval by the voters at Town Meeting.

#### **E. DISCRIMINATION**

The act of discriminating against any resident, employee or visitor to Weston is unacceptable, as well as illegal. Further, no person should be disadvantaged on account of inherent personal characteristics such as race, color, religion, gender, national origin, age, membership in or application for uniformed military service, disability, genetic information, sexual orientation or any other status protected by law.

Harassment does not have to be of a physical and/or an individual nature, whether real **or perceived**. Harassment can include offensive remarks about a particular protected class. For example, it is unacceptable, and in some cases illegal, to harass a woman by making offensive comments about women in general. Committee members are strongly advised to refrain from teasing, making offhand comments, or otherwise engaging in conduct that could be perceived as bullying with respect to other board/committee members, Town staff or the general public.

Harassment shall not be tolerated in the interactions of board and committee members between and among themselves, or with anyone with whom they come into contact in the course of their Town responsibilities.

#### **F. DISABILITY ACCOMMODATION**

The Town of Weston makes reasonable accommodation with respect to the known physical or mental limitations of a qualified applicant, appointed or elected official, or employee with a disability unless such action would cause an undue hardship to the Town, all as required by law.

All programs, services, and activities provided or made available by the Town through its departments, boards, or committees, must be accessible to persons with disabilities, in accordance with the provisions of the Americans with Disabilities Act.

Headphones for the hearing impaired will be made available, upon request, for use in the Sears Auditorium in Town Hall.

Any questions about how to make reasonable accommodations for persons requesting the same should be referred to the Town Manager's office.

#### **G. INDEMNIFICATION**

Board and committee members, as public officials, are indemnified against liability for any act or omission except for intentional violations of civil rights, in accordance with Massachusetts General Laws chapter 258, § 13.

### **IV. COMMITTEE ORGANIZATION**

#### **A. OFFICERS**

Each committee shall annually elect a chair from among its members, unless a chair for an appointed committee was designated by the appointing authority. Certain committees may also find it desirable to elect a vice-chair who can act in the absence of the chair. Committees shall also elect a secretary or clerk to be responsible for the minutes of meetings; provided however, that a vice-chair or staff person may be designated to perform these functions. Occasionally, offices for some committees are held jointly by two members.

After the election, the board or committee must provide the Town Manager's and Town Clerk's offices with a list of officers. Elected boards re-organize in May after the Town election, and if ongoing, appointed boards should also reorganize at that time. Reorganization may also, of course, occur at any time needed, such as following the resignation of a committee chair.

The chair of a committee is responsible for planning the agenda, providing for the posting of notice of a meeting, calling and running meetings, and overseeing committee operations. Customarily, the chair is the spokesperson for the committee. In addition, under the Open Meeting Law, the chair is responsible for periodically reviewing executive session meeting minutes.

For many Weston committees, in particular the Board of Selectmen, School Committee, and Planning Board, the practice has been to have the office of chair rotate among the members. This practice has the advantage of reinforcing the perception that no one individual dominates any committee's policy-making role.

#### **B. ESTABLISHING GOALS, POLICIES AND PROCEDURES**

For some boards and committees, objectives and responsibilities are prescribed by state law or the Town of Weston By-laws. The charge of other appointed committees is set forth in a letter from the appointing authority, and committees established by vote of Town Meeting may have their responsibilities set out in the warrant article under which the committee was created. Brief summaries of the roles and responsibilities of Weston's current boards and committees are provided on the Town of Weston website.

In meeting their responsibilities, some boards and committees set annual goals. Other boards may adopt policies and procedures governing their operations. The setting of goals and adoption of policies and procedures is not mandatory, and depends on the nature of the work performed by the board or committee.

### **C. BUDGET AND EXPENDITURE OF FUNDS**

Boards that receive pay, purchase services, and/or have expense budgets, or that wish to have such, must submit annual budget requests to the Town Manager. Budget requests are due in the fall of each year, by such dates as established and announced by the Town Manager.

Funds may be appropriated by Town Meeting for board or committee operations. Typically, budget appropriations are for a single fiscal year, but certain special funds are in existence for more than one year. Boards are required by law to stay within their appropriated budgets. Any additional funding for committee operations or initiatives, if and as necessary, should be discussed with the Town Manager. Note further that funding for unforeseen emergencies can be provided from the Reserve Fund by vote of the Finance Committee.

Generally, the expenditure of funds requires authorization by majority vote of a board or committee. However, a committee may choose to delegate limited and circumscribed authority in this matter to the chair.

Massachusetts General Laws chapter 30B establishes three threshold levels for procedures to be used in awarding supply and service contracts to municipalities based upon the value of the contract:

- Contracts under \$5,000 – require no formality for entering into, other than sound business practices. No formal competition is required, but it may be a good idea to periodically solicit price lists or quotations to ensure favorable prices.
- Contracts from \$5,000 to \$24,999 – require solicitation of price quotations from no fewer than three vendors. The contract is then awarded to the *responsible* vendor offering the supply or service needed for the lowest price.
- Contracts of \$25,000 or more – require a formal advertised competition using sealed bids or proposals. Utilizing a sealed bid process, the contract is awarded to the lowest *responsible and responsive* bidder. Utilizing a proposal process upon determining in writing that comparative judgment factors, in addition to price, are required for consideration, the contract is awarded to the bidder submitting the most advantageous proposal taking into consideration specified evaluation criteria as well as price.

Any board or committee that wishes to purchase supplies or services valued at more than \$5,000 should first consult with the Town Manager, who serves under applicable law as the Chief Procurement Officer of the Town. In that capacity, all contracts must be signed by the Town Manager. After the contract has been executed and work has begun, the

chair of the board or committee must review and sign all proper invoices, and then send them to the Town Accountant's office for payment. In some cases, a committee may choose to adopt a policy that invoices be signed prior to payment by the chair and one or more additional members.

#### **D. SUB-COMMITTEES, SPECIAL COMMITTEES AND TASK FORCES**

Occasionally, a board or committee finds it necessary or desirable to appoint a sub-committee or task force of its own. Subcommittees and task forces of two or more people that are given an assignment to work collectively, even if only to gather information and make a recommendation to the parent board or committee, must comply with the Open Meeting Law. In essence, this means that meetings must be posted, no action or vote can be taken nor decision reached outside a posted meeting, and minutes must be kept and filed. (The Open Meeting Law is more fully discussed in the next section on "Meetings.")

The parent appointing committee should first agree on a charge for the appointed group, how many members, and who should serve. The appointed sub-committee may comprise only members of the appointing committee, or may comprise individuals who are not already part of the parent body (in which case the latter may need to be sworn in to office before they can participate in any decision or recommendation.) The parent committee should also determine in advance the length of service of the sub-committee and the dates on which it must report to the appointing committee. This information should be documented in an appointment letter from the chair of the parent body to each person appointed to the sub-committee. The parent committee may, if it wishes, designate a chair of the sub-committee, or invite the sub-committee to select its own.

The parent board or committee should have at least one meeting with the appointed sub-committee at the outset, so that all members of both groups understand the assigned parameters.

Whenever a board or committee appoints a sub-committee, special committee or task force, the Town Manager's office must be advised thereof; if members need to be sworn in to office, the Town Clerk's office will also need to be notified.

#### **E. USE OF TOWN COUNSEL**

Town Counsel is available to assist board and committee members in resolving legal issues, whether for the committee as a whole or for any individual acting in that member's official capacity. Prior to making a new legal service request to Town Counsel, the board or committee chair must contact the Town Manager for authorization.

Further, the use of legal counsel other than Town Counsel must be expressly authorized by the Board of Selectmen in advance. Copies of all correspondence to and from Town Counsel must be provided to the Town Manager.

## V. MEETINGS AND HEARINGS

Meetings of public bodies are subject to the requirements of the Open Meeting Law, G.L. c.30A, §§8-25 and the Attorney General's implementing regulations, 940 CMR 29.00, et seq. A meeting of a board occurs any time a quorum of board members meet to deliberate regarding any public business or policy over which the board has some jurisdiction or advisory authority. Meetings must be held in a place which is open and accessible to the public. A regular meeting time and location is useful but not required. While the frequency of meetings will depend on the nature and work load of the board, most boards meet at least once per month.

### **What constitutes a deliberation?**

The Open Meeting Law defines deliberation as "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction." Distribution of a meeting agenda, scheduling or the forwarding of procedural information, reports or documents that may be discussed at a meeting will generally not constitute deliberation.

Importantly, however, no member of the public body may express their opinions, ideas, feelings or beliefs concerning substantive matters within the body's jurisdiction. In fact, e-mail exchanges between or among a quorum of the members of a public body discussing matters within that body's jurisdiction may constitute deliberation in violation of the Open Meeting Law, even if the sender of the email does not ask for a response from the recipients.

A quorum is usually a simple majority of the members of a public body. Thus, a communication among fewer than a quorum of the members of a public body will not automatically constitute a deliberation in violation of the Open Meeting Law. However, serial communications among the members of the public body that together constitute communication among a quorum of members would constitute a violation of the Open Meeting Law. Further, courts have held that the Open Meeting Law applies when members of a public body communicate in a manner that seeks to evade the application of the law. Thus, in some circumstances, communications between two members of a public body, even if two members would not constitute a quorum, when taken together with other communications, may constitute deliberation.

There are five stated exceptions to the definition of a "meeting" under the Open Meeting Law:

1. Members of a public body may conduct an on-site inspection of a project or program;
2. Members of a public body may attend a conference, training program or event;
3. Members of a public body may attend a meeting of another public body provided that they communicate only by open participation;
4. Meetings of quasi-judicial boards or commissions held solely to make decisions in an adjudicatory proceeding are not subject to the Open Meeting Law (applicable only to state public bodies); and,

5. Town Meetings. (See G.L. c. 39, §§ 9-10, establishing procedures for Town Meeting).

Be reminded that deliberation by a quorum outside of a posted meeting, even if that gathering might not constitute a “meeting” for purposes of the Open Meeting Law, would still likely constitute a violation of the Open Meeting Law and would be prohibited.

### **Remote Participation**

The Attorney General’s Regulations, 940 CMR 29.10, permit remote participation, once accepted by the Board of Selectmen, in certain circumstances. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of the Open Meeting Law. In other words, public bodies must strive to promote transparency with regard to the deliberations and decisions on which public policy is based.

In Weston, any member of a public body may participate remotely if the chair or, in the chair’s absence, the person chairing the meeting, determines that one of the following factors makes the member’s physical attendance unreasonably difficult:

1. Personal illness
2. Personal disability
3. Emergency
4. Military service
5. Geographic distance

Acceptable means of remote participation include telephone, internet, or satellite enabled audio conferencing, or any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another. Accommodations must be made for any member of a public body who requires TTY service, video relay service, or other form of adaptive telecommunications. Text messaging, instant messaging, email and web chat without audio are *not* acceptable methods of remote participation.

Additional information about remote participation can be found at <http://www.mass.gov/ago/government-resources/open-meeting-law>.

### **A. LOGISTICS**

#### **(a) Calling a Meeting:**

In accordance with the Open Meeting Law (further discussed below), all meetings in which any discussion or deliberation will occur between a quorum of committee or board members must be posted with the Office of the Town Clerk at least 48 hours in advance of the meeting. This 48-hour posting requirement excludes Saturdays, Sundays and legal holidays. The notice must include the date, time and place of the meeting as well as a detailed listing of all topics that the board or committee chair reasonably anticipates will be discussed. In practical terms, if a meeting will be held on Monday or a Tuesday

following a long weekend, it must be posted on Thursday at a time prior to the time of the Monday or Tuesday meeting. If a meeting will be held on Tuesday, it must be posted on Friday at a time prior to the time of the Tuesday meeting.

A standard form used for posting a meeting is included in the Appendix; blank forms are available in the Clerk's office in Town Hall. The form must be completed by the Chair or the Chair's designee and delivered to the Clerk's office. The Clerk's office will then post the meeting notice on the bulletin board in Town Hall and on the Town of Weston website.

In the event of an emergency, that is, a sudden, unexpected occurrence which requires immediate action by the body, notice may be posted less than 48 hours in advance of the meeting. As soon as the emergency meeting is scheduled, notice must be posted if the same is practicable.

All board members should be notified of the date, time, and place scheduled for each meeting as well as be provided with the meeting notice.

(b) Canceling a Meeting:

In the event a meeting is canceled, notice of cancellation should be posted with the Office of the Town Clerk. While a committee is not legally required to post a cancellation, the posting is highly recommended so as to alert in advance interested members of the public, other members of the public body, Weston Cable, and other interested parties. Also, as a matter of courtesy, the person responsible for reserving the location space should be notified so that the space can be released for another purpose, if necessary.

(c) Arranging a location:

Meetings should be held, whenever possible, in Town-owned public, accessible places in the town. A number of options are available. It is unlikely that a meeting of a public body may be held in a private home, as such places are generally not handicapped-accessible to the extent required by the Americans with Disabilities Act.

To book space in Town Hall in one of the several meeting rooms or the Sears Auditorium, call the Town Manager's Office, at (781) 786-5020.

To book space in the Library Community Room, call (781) 786-6160.

To book space in the Community Center, call (781) 786-6260.

To book space in the Amy Potter Center or High School Auditorium, call at (781) 786-5232

## **B. CONDUCTING A MEETING**

**(a) The Massachusetts Open Meeting Law:**

The Massachusetts Open Meeting Law, Massachusetts General Laws chapter 30A, §§18-25, is designed to ensure that governmental activities are conducted in public, except in limited circumstances. The Open Meeting Law gives any member of the public, including the press, the right to attend (though not necessarily the right to participate

in) all meetings of public bodies except those portions held in executive session. The law requires notice of meetings, including a detailed listing of the topics to be discussed, to be publicly posted, minutes to be taken, and “closed” sessions to be held only in specific circumstances.

A full copy of the Open Meeting Law is available online at the General Court’s website, at <http://www.malegislature.gov/Laws/GeneralLaws/Search>. The Attorney General’s Open Meeting Law website is found at [www.mass.gov/ago/government-resources/open-meeting-law/](http://www.mass.gov/ago/government-resources/open-meeting-law/).

To summarize the information already provided:

1. All meetings must be open to the public;
2. No private meetings may be held -- private meetings include telephone conversations or electronic mail conversations which could be construed as deliberating toward a decision; and
3. No final agreements may be reached at social gatherings or “chance” meetings of members of a public body. “Chance” meetings (including telephone or electronic meetings) may not be held to circumvent the requirements of the open meeting law.

Open meetings may be taped or videotaped by anyone in attendance, as long as the person notifies the chair that the taping will occur and the chair informs the public of the same.

**(b) Quorum:**

A quorum must be present for a board to take vote or action. In general, a majority of the members on any board or committee constitutes a quorum.

Occasionally, a statute or state regulation will define a “quorum” to mean a majority of the members then in office. In the event that less than a quorum of a public body is present at a meeting or hearing, the only action the members present may take is to continue the meeting to a future time, date, and place.

Committee or board members who may have a personal financial interest in the outcome of a vote must, unless appointed and otherwise authorized to participate by their appointing authority, recuse themselves from participation with respect to the same, including deliberation or vote on the matter. Such recusal could result in lack of a quorum on the particular issue, and therefore prevent a vote on the matter at that time. Any time a committee or board member has a financial or personal interest in a particular topic to be discussed and/or voted upon, consultation should be made with Town staff as to what the implications are with respect to participation of said member.

**(c) Agenda:**

The meeting notice, as discussed above, must include a detailed list of the items the board or committee chair reasonably anticipates being discussed at the meeting, including any planned executive session with the stated reason for the executive session. The meeting agenda will include such items as well as the anticipated timeline for discussing each

item. The use of the terms “old business” and “new business” as stand-alone items is discouraged; instead, a detailed description of the new and old business items to be discussed should be listed. Preparing the agenda is the responsibility of the chair or the chair and staff, if staff is available. To the extent possible, the chair or staff should distribute the agenda to committee members in advance of the meeting. Meeting notices must be sent to the Town Clerk’s office for posting on the Town of Weston website, at least 48 hours in advance of the meeting, excluding Saturdays, Sundays, and holidays, as discussed in further detail, above.

**(d) Minutes:**

Minutes must be kept for each meeting of a public body. The minutes must be filed in the Town Clerk’s office and are posted on the Town’s website. The Open Meeting law requires every public body to maintain accurate records of its meetings, setting forth the time, date, place, members present or absent, and the action taken at each meeting. "Action taken" includes discussion or consideration of issues, even if no vote is taken or no determination is made with respect to any issue or subject considered. While a verbatim transcript of the proceedings is not required, the minutes must include a detailed summary of what was discussed with a precise accounting of each vote. The records or minutes of every meeting are public records from the moment they are made, and must be made available to the public upon request. The act of voting to accept the minutes after reviewing them is customary for many boards. Be aware, however, that this is not required by state law, which only requires that each board and commission designate a clerk responsible for creating the minutes. Thus, if a request is made for the minutes prior to approval thereof, such minutes should be marked “draft” in each page. Note further that the Supervisor of Public Records has ruled that a paper copy, as opposed to an electronic version, must be retained.

A few boards, such as the Board of Selectmen and the School Committee, are provided with clerical assistance at their meetings to take minutes, but most are not. Some committees designate a single member as clerk or secretary to be responsible for taking notes. Others rotate the responsibility among all members.

Samples of meeting notices/agendas and meeting minutes can be found on the Town website at <http://weston.govoffice.com> under the header “Boards and Committees.”

Minutes for executive sessions, discussed below, may remain private as long as their publication would defeat the lawful purpose of the executive session, but no longer. In addition to the requirements applicable to minutes generally, executive session minutes must also reflect a roll call for each vote taken.

**(e) Conducting a meeting:**

Most boards and committees conduct their business using Robert’s Rules of Order. This book is available in the Weston Public Library. Further, a summary entitled, “Introduction to Robert’s Rules”, can be found at <http://weston.govoffice.com> under the header “Boards and Committees/ All Elected and Appointed”, as well as in the appendix to this handbook.

The use of Robert's Rules, and the degree of adherence thereto, is largely dependent upon the number of committee members and the degree of formality each public body decides is needed to facilitate the orderly conduct of such meetings. The utilization of any code of parliamentary procedure is to provide for fairness and courtesy in the conduct of meetings. Generally, the chair sets expectations for the other members of the public body and establishes the procedures by which the public body will operate.

In Weston, interested residents often attend board or committee meetings. However, at committee and board meetings (as distinguished from hearings, discussed below), the fact that the public can attend does not translate into an entitlement for members of the public to speak. Under the Open Meeting Law, members of the audience, whether taxpayers, voters, or non-residents, may address the board only with the permission of the presiding officer.

If public participation is permitted, the chair has authority to ensure that public participation does not interfere with the work of the board or committee. For example, a chair can (and in some cases, should) ask that the public refrain from comment until the end of the meeting or limit the time for public comment on any particular agenda item.

Board and committee members are expected to act at all times in the best interests of the Town. During meetings, members are expected to act in a manner consistent with federal, state and local law and regulations; perform their duties to the best of their abilities; conduct themselves professionally; and be respectful of other people's positions and actions.

**(f) Disruption:**

In the event an individual or group of individuals attending a meeting causes a disruption, the board or committee chair has several options available. One option is for the chair to call for a recess or break in the meeting to allow people to cool off. If members of the audience are still disruptive after the break, the chair may decide to continue the meeting to another time, date and place, and adjourn the meeting.

If one or two particular individuals are disruptive or insist upon speaking without permission of the chair, Massachusetts law provides that the chair may order the person or persons to withdraw from the meeting. Unless the board or committee chair believes that audience members represent a threat to the physical well-being of other board members or the public, removal of the individual(s) by the police should be used only as a last resort.

**(g) Executive Session**

Executive session may be called for a *very limited* set of circumstances, including certain discussions of disciplinary action, collective bargaining, etc. A full listing of appropriate use of executive session is contained in the Appendix. When in doubt about the appropriateness of using executive session, boards and committees should consult with appropriate staff or the Town Manager.

In order to move into executive session, the session must appear on the meeting notice (except in limited circumstances), and the chair of the committee or board must take the following steps:

- Convene in open session; state the reason for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
- State whether the public body will reconvene in open session at the end of the executive session. If the meeting will adjourn upon completion of the executive session, a common indication is "to return to open session only to adjourn;" and
- Take a roll call vote of the body to enter executive session ( be reminded further that all votes taken in executive session must be recorded on a roll call as well).

Additionally, under certain circumstances, additional procedures must be followed prior to convening an executive session. If the board or committee desires to call for an executive session in order to discuss the discipline, character, criminal conduct, etc. of an individual, that individual must be given 48-hours advance notice (as that period is calculated under the Open Meeting Law). Note that an individual to be discussed in executive session has the right under law to instead have the matter be heard in open session. Any board or committee considering executive session for this purpose shall consult with the Town Manager before acting.

If a member is participating remotely in an executive session, that member must state at the start of the executive session that no other person is present and/or able to hear the discussion at the remote location. The public body may authorize, by a simple majority vote, the presence and participation of other individuals at the remote participant's location.

The law governing executive sessions may be found online at <http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30A/Section2>

The Attorney General's Open Meeting Law Guide is available on-line at [www.mass.gov/ago/government-resources/open-meeting-law/attorney-generals-open-meeting-law-guide.html](http://www.mass.gov/ago/government-resources/open-meeting-law/attorney-generals-open-meeting-law-guide.html)

### **C. HEARINGS**

Some meetings are designated as public hearings. Unlike most other committee or board meetings, hearings generally are concerned with a single agenda item; a hearing may even be conducted during the course of a regular meeting. Hearings generally involve the adjudication of individual rights, and provide an opportunity for the applicant and, perhaps, abutters or other interested persons, to present comment or testimony to a committee or board before a decision is made. Public hearings may be required by law before the Board of Selectmen, Planning Board, Zoning Board of Appeals and Conservation Commission may take certain actions, typically to issue

permits or licenses, make a recommendation concerning a particular issue, or adopt or amend a regulation, In addition, a board or committee may choose to schedule a public hearing to receive input prior to taking action.

In addition to the posting requirements under the Open Meeting Law applicable to all meetings of a public body, additional notice requirements may be applicable to public hearings. For example, notice might be required to be provided in a newspaper of general circulation in the Town, to abutters, and to other parties in interest. All the formalities applicable to meetings of public bodies, including the Open Meeting Law, are also applicable to hearings.

Certain hearings may involve participation by members of the general public. Consequently, public hearings tend to require more formality and stricter adherence to Robert's Rules than regular committee and board meetings. The presiding committee member (usually the chair) is responsible for assuring that order is maintained, and that no one person usurps the floor for an unreasonable period.

#### **(a) Conducting a Hearing**

At the beginning of a hearing, the presiding board or committee member, generally the chair, should state the purpose and briefly summarize any relevant background. The chair may wish to begin the hearing with a presentation and then open the meeting up to the public for comment and testimony. Although reasonable time constraints may be imposed, it is important that a fair and reasonable process is used to regulate public participation. If necessary, the hearing can be continued to a later time, date and place. Note, however, that while additional notice may not be required under the applicable statute or regulations, the continued meeting must be noticed under the Open Meeting Law.

Once all evidence and testimony has been submitted, the presiding member announces that the hearing is closed. At this point, the board may deliberate, but it may not accept or consider any new information. Depending upon the subject, once the hearing is closed, the board may, by law, have a limited amount of time to deliberate and reach a decision.

#### **(b) Adjudicatory Hearings**

Some hearings are conducted prior to a decision by a board or committee as the result of a request or application a resident or group of residents where the decision is adjudicatory in nature. For example, a resident may apply for relief from a sanction imposed, or proposed to be imposed, by the Town of Weston, or may seek a variance from the Zoning By-laws. Sometimes, an adjudicatory hearing results from a complaint filed by one or more residents, or the police, that there has been a violation of the Town's General By-Laws, such as by the creation of a public nuisance.

While specific rules apply to boards and committees such as the Zoning Board of Appeals and Conservation Commission in the conduct of these kinds of adjudicatory hearings, any board or committee can find itself faced with a matter requiring adjudication involving the rights of an individual vis-à-vis the community. All that has

been said with respect to meetings in general, and to hearings in particular, applies, but in addition, adjudication of the rights of individuals also implicates the legal principle of due process. A public body may consult with staff or the Town Manager concerning the process that is due in any particular situation.

## **VI. COMMUNICATIONS**

As discussed, a meeting posted under the Open Meeting Law is the appropriate forum for members of boards and committees to communicate. This is where the give-and-take of opinion, advocacy, and resolution occur.

### **A. ELECTRONIC COMMUNICATIONS**

#### **(a) Town Website**

The Town's website, [www.weston.org](http://www.weston.org), provides an excellent vehicle for communication with the public. The Town Clerk's office posts notices of all board and committee meetings on the website, in addition to the physical posting made on a bulletin board in the Town Hall. Boards and committees must also post their meeting agendas on the website and should post minutes as well. The website can also be used to publish status reports and "white papers" on committee recommendations and to solicit public input on matters under deliberation. The Town's website does not provide for two-way communication with residents.

Any material for posting on the Town's website should be sent to the Webmaster at [webmaster@westonmass.org](mailto:webmaster@westonmass.org). For additional information, call (781) 786-5196.

While the website is a good forum for committees and boards, it is not available to individual members to advocate their own views. Individual members of boards and committees have no power or authority; only the board or committee by majority vote can make decisions and adopt policies.

#### **(b) Email Subscription Service**

MyGrapevine is a service whereby residents can subscribe to receive emails alerting them about: upcoming meetings, hearings and events; committee and board vacancies; public works projects; school issues; and other Town sponsored issues believed to be of interest to the public. The messages sent from myGrapevine are school or government related and are reviewed by the School Department and/or Town Manager prior to being e-mailed. The messages are intended to be policy neutral. To subscribe, go to [www.mygrapevine.org/](http://www.mygrapevine.org/).

#### **(c) Facebook and Twitter**

The Town has a Facebook page monitored by the Town Manager's office and a Twitter feed that automatically tweets updates from the Town's website. The Facebook page and Twitter feed provide another venue for getting word out about upcoming meetings, events, committee vacancies, etc. The Facebook page allows for interaction between the public and Town government.

## **B. COMMUNICATING WITH THE PUBLIC IN PERSON, BY PHONE, OR THROUGH CORRESPONDENCE:**

Whether elected or appointed, members should be two-way communicators, representing and reflecting the views of the community as well as their own in board deliberations, and then supporting and explaining the conclusions, decisions and recommendations of their boards and committees to the public.

Inevitably, residents will approach board and committee members to raise concerns and express their views. Effective members acquire the skill of listening to their constituents, and to all town residents, without promising or implying that a specific action will be taken by the committee as a result. As noted, a board or committee may only act through a vote of the body.

Some boards designate the chair as the official spokesperson for the group, and defer to the chair for comment. Others encourage all of its members to speak publicly as to the position of the public body. To avoid confusion regarding who should speak to what issues, boards and committees should establish policies and guidelines concerning such matters.

As a practical matter, successful board and committee members advocate their individual positions, but once the board reaches a determination, support the majority view in public communications. At a minimum, a member who publicly states an opinion in conflict with a committee decision should also describe the majority decision, the rationale for it, and why the member disagrees with it. While not prohibited by law, it undermines the work of a board or committee for a single member to engage in public criticism of a board or board decision with which that member disagrees.

## **C. COMMUNICATING WITH THE PRESS\***

As noted above, frequently the chair of the board or committee is designated to speak for the group. However, particularly if a deadline is nearing and the chair is unavailable, individual members may be contacted by the *Town Crier*, *Weston Patch*, or other local press. It is always recommended that consultation be had with the Town Manager prior to speaking with the press.

Apart from general guidelines about public communication, the following tips\* may be useful:

- If possible, get to know and understand the local reporter, and that person's strengths and weaknesses. A friendly but professional relationship helps. Don't go over straight to the editor unless absolutely necessary.

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\* Adapted from "Becoming a Better Board Member," National School Boards Ass'n., pub.

- Don't blame the reporter for previous press mistakes or headlines, especially if the reporter had nothing to do with it. Reporters generally have little or no input on headlines, which are designed to fit the space and grab attention.
- Having factual background or other information in written form for reporters is always welcomed and increases the likelihood that the story will be accurate.
- Be aware of and respect the reporter's press deadlines.
- Avoid jargon.
- If you don't know the answer to a question, don't "fake" it. Offer to find the answer for the reporter.
- Offer, but don't demand, to review a reporter's story before it runs. Better to offer to be available for clarification if the reporter wishes.
- If the nature of the information is such that you feel you must review the story before it runs, make that a condition of the interview at the outset.
- If you do not want to be named as the source of information, make it clear to the reporter at the outset of an interview, and say that the interview is for background briefing only. The reporter can then determine whether or not to use the information on a non-source-attributable basis or not.
- *Remember that nothing is off-the-record.*

#### **D. ANNUAL TOWN REPORT**

All appointed boards and committees are requested to file no later than January of each year an annual report of activities for the official Annual Town Report. The chair or another designated member should report on major accomplishments of the year and future plans for the next year. A request for board or committee reports is issued each year by the Annual Town Report Editor.

### **VII. PUBLIC RECORDS**

Since 1851, Massachusetts has mandated the public disclosure of government records. The current laws, Massachusetts General Law chapter 4, §7 and chapter 66, §10 parallel, in many ways, the federal Freedom of Information Act. These two statutes may be found on-line at:

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleI/Chapter4/Section7>;

and <http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleX/Chapter66/Section10>

The Secretary of the Commonwealth has published [A Guide to the Massachusetts Public Records Law](#), which may be accessed at the following link: [www.sec.state.ma.us/pre/prepdf/guide.pdf](http://www.sec.state.ma.us/pre/prepdf/guide.pdf)

In short, all books, papers, maps, photographs, recorded tapes, financial statements, electronic data, electronic mail, etc. made or received by any officer or employee of the Town are open to public view, unless the materials fall within one of a limited number of exemptions, the most common of which are listed below:

1. Documents exempted from disclosure by law (exemption (a)).
2. Documents related solely to internal personnel rules and practices, but only to the extent that the performance of town business or government requires such withholding (exemption (b)).
3. Personnel and medical files; materials relating to a specifically named individual, the disclosure of which may constitute an invasion of privacy (exemption (c)).
4. Inter- or intra-agency memos or letters relating to policy decisions being developed (does not apply to complete factual studies or reports) (exemption (d)).
5. Notebooks and other materials prepared by employees which are personal to them and not maintained as part of the files of the governmental unit (exemption (e)).
6. Investigatory materials necessarily compiled out of the public view by law enforcement officials, the disclosure of which would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest (exemption (f)).
7. Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy and upon a promise of confidentiality. Does not apply to information submitted as required by law or as a condition of receiving a governmental contract or other benefit (exemption (g)).
8. Proposals and bids to enter into any contract or agreement, until the time for opening the bids or receipt of the bids has passed and inter or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or toward a contract to a particular person (exemption (h)).
9. Appraisals of real property to be acquired, until (1) an agreement is entered into, or (2) any litigation relative to such appraisal has been terminated; or (3) the time within which to commence such litigation has expired (exemption (i)).

In addition to being available to the public, public records must be retained by an official records "custodian" for seven years, or otherwise in accordance with a specific retention schedule. The length of time that any record must be retained depends upon the nature of the record.

## **A. E-MAIL**

The Secretary of the Commonwealth has determined that *all* e-mail messages created or received by an elected or appointed Town official, employee or member of a multiple-member body are public records. This includes e-mail sent and received by committee and board members from their own computers, if it relates in any way to their public office.

This means that e-mail messages must be preserved in accordance with the public records retention schedule, and further that such records must be made available for public inspection or copying, unless they fall within one of the limited number of statutory exemptions.

In many ways, e-mail has replaced the telephone for casual discussion. Nevertheless, by law, it constitutes public records and must be regarded and treated as such. A prudent approach for the clerk or secretary of each board or committee is to ensure that e-mail messages relating to the business of the board or committee are regularly printed out and included with the minutes of the meeting.

As discussed above, an exchange of e-mail amongst a quorum of members, whether concurrently or serially constitutes a violation of the Open Meeting Law if such matters include the feelings, ideas, beliefs or opinions of the members.

## **B. PUBLIC ACCESS TO RECORDS**

A request for public records may be made by anyone, including a member of the press, whether in person or in writing. A keeper of a public record may not insist that the requestor put the request in writing or identify the purpose for the request. If committee members have any doubt as to whether a record should be released, they should contact the Town Manager immediately. All public records requests must be honored within 10 days (either to produce the record, deny the request, provide an estimate of the cost to comply if more than \$10.00, or some combination of these responses). Denial of public records requests must be made in writing. All requests for personnel information should be forwarded to the Town Manager. In no event should personnel information be given out in response to a public records request.

## **C. FEES**

Although the law encourages the waiver of fees, the Supervisor of Public Records has adopted regulations setting forth fees that may be charged for searching for, reviewing and redacting copies of public records.

Unless specifically addressed by statute, the Town may charge twenty cents (\$.20) a page for photocopies, twenty-five cents (\$.25) a page for microfilm copies and fifty cents (\$.50) a page for computer printouts. The actual cost incurred by the keeper of the records may be charged for records "not susceptible to ordinary means of reproduction," such as computerized records or over-sized documents.

The records custodian may also charge for the time it takes to search for records, remove any exempt data, photocopy the record and refile it. The charge for this process must be the prorated hourly wage of the lowest paid employee capable of performing the task. Other than search time, however, no fee is allowed for the mere inspection of records without copying.

Where the total cost to respond to a request for records is expected to exceed ten dollars (\$10.00), a written good faith estimate for the cost of complying with a request should be provided. The estimate should provide a breakdown of the expected expenses.

Examples of statutes that establish fees for specific public records are those relating to copies of police records and copies of records at the Registry of Deeds. Additionally, special fee schedules are provided for voter lists and mailing labels.

#### **D. CONFIDENTIALITY**

Except as otherwise provided by law, or pursuant to a court order, records protected from disclosure under the Public Records Law, including records of an executive session, should not be disclosed by any member of a board or committee.

### **VIII. ADMINISTRATION**

#### **A. STATIONERY**

Town of Weston stationery is available in the Office of the Town Manager for board and committee use.

#### **B. USE OF PHOTOCOPYING EQUIPMENT**

Board or committee members may use the photocopier on the first floor of Town Hall for copying a reasonable number of documents for board or committee business. Contact the Town Manager's Office at (781) 786-5020 for assistance with coordinating copying of long or over-sized documents.

#### **C. MAILING**

Boards and committees with no professional staff should contact the Town Manager's office for advice, and depending on the circumstances, possible assistance in conducting large-scale mailings.

#### **D. CLERICAL ASSISTANCE**

Limited clerical assistance – such as posting of meeting notices, certain mailings, and limited photocopying – may be provided, as appropriate, by the Town Manager's office. Call (781) 786-5020.

#### **E. EXPENDITURE OF FUNDS**

Boards or committees that frequently spend funds appropriated in the annual operating budget, such as the Board of Selectmen, School Committee, Library Trustees,

Conservation Commission, Planning Board, Recreation Commission and Board of Appeals generally have assigned Town employees who administer the process. Other committees that may have occasion to spend authorized funds must contact the Town Manager's Office at (781) 786-5020 for more information, as public procurement laws are likely applicable and it is essential to ensure compliance with such laws.

Invoices received by the Town for costs incurred by committees will normally be directed to the chair to sign off that the goods or services have been received. Invoices are then sent to the Town Accountant for processing and payment.

Requests for reimbursement of authorized expenditures should be signed by the chair and, along with receipts for expenses incurred, sent to Accounting for payment.

All boards and committees are reminded that public funds may not be used for private purposes and may only be used for the purposes for which they were appropriated.

#### **F. REQUESTS FOR TOWN MEETING ARTICLES**

Any board or committee wishing to submit an article for consideration at the Annual Town Meeting must do so by the end of January each year. Such article should be submitted to the Town Manager's office. Note that if the complete text of an article is not available by that time, the general substance of the article should be provided.

#### **G. PERSONNEL MATTERS**

Should a board or committee have occasion to undertake the hiring of a Town employee as staff or Department Manager, such action must be taken in consultation with the Town Manager and/or Assistant Town Manager & Human Resources Director. Before commencing any hiring process, the chair must contact Human Resources at (781) 786-5090 to ensure all pre-recruitment and recruitment steps are completed. Pursuant to the laws applicable to the Town, all new hires must be approved by the Town Manager.

The Town of Weston has implemented a formal performance review process, in which town employees who provide committee or board staff support are evaluated jointly by the Town Manager or Assistant Town Manager and the appropriate committee or board. Human Resources will notify the chair prior to the review date to discuss the process.

Occasionally, a town employee may raise a personal issue or concern with a board or committee member regarding his or her Town of Weston employment. Such matters should promptly be referred to the individual's Department Manager, Human Resources, or the Town Manager, as appropriate. Although the inclination for board and committee members to want to assist town employees is natural, they must refrain from making promises or assurances concerning personnel issues.

## IX. WESTON CONTACTS

A brief description of the current active boards and committees in Weston may be found on the Town's website, [www.weston.org](http://www.weston.org).

In addition, contact information for committee and board members, for Weston Department Managers and selected staff, can also be found on the Town's website.

## X. SELECTED REFERENCES

### ON-LINE

Massachusetts:

Commonwealth of Massachusetts

[www.mass.gov/portal/](http://www.mass.gov/portal/)

Massachusetts General Court

[www.malegislature.gov/](http://www.malegislature.gov/)

Massachusetts Attorney General's Office

[www.mass.gov/ago/](http://www.mass.gov/ago/)

Massachusetts State Ethics Commission

[www.mass.gov/ethics/](http://www.mass.gov/ethics/)

Massachusetts Secretary of State Office

[www.sec.state.ma.us/](http://www.sec.state.ma.us/)

Massachusetts Municipal Association

[www.mma.org](http://www.mma.org)

Massachusetts Citizen Planner (for municipal planning and zoning officials):

[www.umass.edu/masscptc/](http://www.umass.edu/masscptc/)

Federal Government:

U.S. Government home page:

[www.use.gov/](http://www.use.gov/)

U.S. Code:

[www.uscode.house.gov/](http://www.uscode.house.gov/)

### PRINT

Finance Committee Handbook

Publication of the Association of Town Finance Committees – Contact MMA

A Guide to Financial Management for Town Officials

Publication of the Massachusetts Department of Revenue, Division of Local Services

Becoming a Better Board Member: A Guide to Effective School Board Service

Publication of the NSBA; 1680 Duke Street, Alexandria, VA 22314

Weston, Massachusetts: "Know Your Town" Handbook

Publication of the League of Women Voters of Weston

## APPENDIX

### **The Ten Purposes for Executive Session**

The law states ten specific Purposes for which an executive session may be held, and emphasizes that these are the only purposes for which a public body may enter executive session.

The ten Purposes for which a public body may vote to hold an executive session are:

**1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties.**

This Purpose is designed to protect the rights and reputation of individuals. Nevertheless, it appears that where a public body is discussing an employee evaluation, considering applicants for a position, or discussing the qualifications of any individual, these discussions should be held in open session to the extent that that the discussion deals with issues other than the reputation, character, health, or any complaints or charges against the individual. An executive session called for this Purpose triggers certain rights on the part of an individual who is the subject of the discussion. The individual's right to choose to have this discussion in an open meeting takes precedence over the right of the public body to go into executive session.

While the imposition of disciplinary sanctions by a public body on an individual fits within this Purpose, this Purpose does not apply if, for example, the public body is deciding whether to lay off a large number of employees because of budgetary constraints.

**2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;**

**Collective Bargaining Sessions:** These include not only the bargaining sessions but also include grievance hearings that are required by a collective bargaining agreement.

While a public body may negotiate with nonunion personnel or conduct a collective bargaining session with a union in executive session, and may even agree on final contract terms in executive session, the public body must vote to approve or ratify any contract or collective bargaining agreement in open session before it can take effect.

**3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;**

**Collective Bargaining Strategy:** Discussions with respect to collective bargaining strategy include discussion of proposals for wage and benefit packages or working conditions for union employees. The public body, if challenged, has the burden of proving that an open meeting might have a detrimental effect on its bargaining position. The showing that must be made is that an open discussion *may* have a detrimental effect on the collective bargaining process; the body is not required to demonstrate or specify a definite harm that would have arisen. At the time the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's bargaining or litigating position.

**Litigation Strategy:** Discussions concerning strategy with respect to ongoing litigation obviously fit within this Purpose, but only if an open meeting may have a detrimental effect on the litigating position of the public body. Discussions relating to potential litigation are not covered by this exemption unless that litigation is clearly and imminently threatened or otherwise demonstrably likely. That a person is represented by counsel and supports a position adverse to the public body's does not by itself mean that litigation is imminently threatened or likely. Nor does the fact that a newspaper reports a party has threatened to sue necessarily mean imminent litigation.

**Note:** A public body's discussions with its counsel do not automatically fall under this or any other Purpose for holding an executive session.

**4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;**

**5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;**

This Purpose permits an executive session to investigate charges of criminal misconduct and to consider the filing of criminal complaints. Thus, it primarily involves discussions that would precede the formal criminal process in court. Purpose 1 is related, in that it permits an executive session to discuss certain complaints or charges, which may include criminal complaints or charges, but only those that have already been brought. Also, unlike Purpose 5, Purpose 1 confers certain rights of participation on the individual involved, as well as the right for the individual to insist that the discussion occur in open session. To the limited extent that there is overlap between Purposes 1 and 5, a public body has discretion to choose which Purpose to invoke when going into executive session.

**6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;**

Under this Purpose, as with the collective bargaining and litigation Purpose, an executive session may only be held where an open meeting may have a detrimental impact on the body's negotiating position with a third party. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's negotiating position.

**7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;**

There may be provisions in state statutes or federal grants that require or specifically allow a public body to consider a particular issue in a closed session. Before entering executive session under this purpose, the public body must cite the specific law or federal grant-in-aid requirement that necessitates confidentiality.

**8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;**

This Purpose permits a hiring subcommittee of a public body or a preliminary screening committee to conduct the initial screening process in executive session. This Purpose does not apply to any stage in the hiring process after the screening committee or subcommittee votes to recommend candidates to its parent body, however it may include multiple rounds of interviews by the screening committee aimed at narrowing the group of applicants down to finalists. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session will be detrimental to the public body's ability to attract qualified applicants for the position. If the public body opts to convene a preliminary screening committee, the committee must contain fewer than a quorum of the members of the parent public body. The committee may also contain members who are not members of the parent public body.

Note that a public body is not required to create a preliminary screening committee to consider or interview applicants. However, if the body chooses to conduct the review of applicants itself, it may not do so in executive session.

**9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:**

(i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and

(ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session.

**10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information that has been provided under the following circumstances:**

a. in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to [G.L. c. 164 § 1F](#);

b. in the course of activities conducted as a municipal aggregator under [G.L. c. 164 § 134](#); or

c. in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to [G.L. c. 164 § 136](#); and

d. when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

## INTRODUCTION TO ROBERT'S RULES OF ORDER

### What Is Parliamentary Procedure?

It is a set of rules for conduct at meetings that allows everyone to be heard and to make decisions without confusion.

### Why is Parliamentary Procedure Important?

Because it's a time-tested method of conducting business at meetings and public gatherings. It can be adapted to fit the needs of any organization. Today, Robert's Rules of Order newly revised is the basic handbook of operation for most clubs, organizations and other groups. So it's important that everyone know these basic rules!

Organizations using parliamentary procedure usually follow a fixed order of business. Below is a typical example:

- Call to order
- Roll call of members present
- Reading of minutes of last meeting
- Officers reports
- Committee reports
- Special orders --- Important business previously designated for consideration at this meeting
- Unfinished business
- New business
- Announcements
- Adjournment

The method used by members to express themselves is in the form of moving motions. A motion is a proposal that the entire membership take action or a stand on an issue. Individual members can:

- Call to order
- Second motions
- Debate motions
- Vote on motions

There are four Basic Types of Motions:

1. Main Motions: The purpose of a main motion is to introduce items to the membership for their consideration. They cannot be made when any other motion is on the floor, and yield to privileged, subsidiary, and incidental motions.

2. Subsidiary Motions: Their purpose is to change or affect how a main motion is handled, and is voted on before a main motion.
3. Privileged Motions: Their purpose is to bring up items that are urgent about special or important matters unrelated to pending business.
4. Incidental Motions: Their purpose is to provide a means of questioning procedure concerning other motions and must be considered before the other motion.

### **How are Motions Presented?**

#### 1. Obtaining the floor

- a. Wait until the last speaker has finished.
- b. Rise and address the Chairman by saying, "Mr. Chairman, or Mr. President."
- c. Wait until the Chairman recognizes you.

#### 2. Make Your Motion

- a. Speak in a clear and concise manner.
- b. Always state a motion affirmatively. Say, "I move that we ..." rather than, "I move that we do not ...".
- c. Avoid personalities and stay on your subject.

#### 3. Wait for Someone to Second Your Motion

4. Another member will second your motion or the Chairman will call for a second. If there is no second to your motion it is lost

#### 5. The Chairman States Your Motion

- a. The Chairman will say, "it has been moved and seconded that we ..." Thus placing your motion before the membership for consideration and action.
- b. The membership then either debates your motion, or may move directly to a vote.
- c. Once your motion is presented to the membership by the chairman it becomes "assembly property", and cannot be changed by you without the consent of the members.

## 6. Expanding on Your Motion

- a. The time for you to speak in favor of your motion is at this point in time, rather than at the time you present it.
- b. The mover is always allowed to speak first.
- c. All comments and debate must be directed to the chairman.
- d. Keep to the time limit for speaking that has been established.
- e. The mover may speak again only after other speakers are finished, unless called upon by the Chairman.

## 7. Putting the Question to the Membership

- a. The Chairman asks, "Are you ready to vote on the question?"
- b. If there is no more discussion, a vote is taken.
- c. On a motion to move the previous question may be adapted.

## **Voting on a Motion**

The method of vote on any motion depends on the situation and the bylaws of policy of your organization. There are five methods used to vote by most organizations, they are:

1. By Voice -- The Chairman asks those in favor to say, "aye", those opposed to say "no". Any member may move for a exact count.
2. By Roll Call -- Each member answers "yes" or "no" as his name is called. This method is used when a record of each person's vote is required.
3. By General Consent -- When a motion is not likely to be opposed, the Chairman says, "if there is no objection ...". The membership shows agreement by their silence, however if one member says, "I object," the item must be put to a vote.
4. By Division -- This is a slight verification of a voice vote. It does not require a count unless the chairman so desires. Members raise their hands or stand.
5. By Ballot -- Members write their vote on a slip of paper. This method is used when secrecy is desired.

There are two other motions that are commonly used that relate to voting.

1. Motion to Table -- This motion is often used in the attempt to "kill" a motion. The option is always present, however, to "take from the table", for reconsideration by the membership.

2. Motion to Postpone Indefinitely -- This is often used as a means of parliamentary strategy and allows opponents of motion to test their strength without an actual vote being taken. Also, debate is once again open on the main motion.

Parliamentary Procedure is the best way to get things done at your meetings. But, it will only work if you use it properly.

- Allow motions that are in order
- Have members obtain the floor properly
- Speak clearly and concisely
- Obey the rules of debate
- Most importantly, **BE COURTEOUS**

**TOWN OF WESTON  
MASSACHUSETTS**

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January 30, 2013

Notice is hereby given that the **X Committee** of the Town of Weston will hold a meeting **Saturday, February 2, 2013** at **8:30 a.m.** in a conference room at the Weston Town Hall.

By \_\_\_\_\_  
John Q. Public, Chair

For use of Town Clerk only:

Received: \_\_\_\_\_, 2013 at \_\_\_\_\_ o'clock \_\_\_am\_\_\_pm.

Posted: \_\_\_\_\_, 2013 at \_\_\_\_\_ o'clock \_\_\_am\_\_\_pm.

on Bulletin Board at Town Hall

## **Holidays Observed by Town Departments: Town & School Buildings Closed**

| <b><u>Holiday</u></b>         | <b><u>Date or Day Observed</u></b> |
|-------------------------------|------------------------------------|
| New Year's Day                | January 1 <sup>st</sup>            |
| Martin Luther King's Birthday | Third Monday in January            |
| Washington's Birthday         | Third Monday in February           |
| Patriots' Day                 | Third Monday in April              |
| Memorial Day                  | Last Monday in May                 |
| Independence Day              | July 4 <sup>th</sup>               |
| Labor Day                     | First Monday in September          |
| Columbus Day                  | Second Monday in October           |
| Veterans' Day                 | November 11 <sup>th</sup>          |
| Thanksgiving Day              | Fourth Thursday in November        |
| Christmas Day                 | December 25 <sup>th</sup>          |

All holidays falling on Sunday must be observed on Monday, under state law.  
Holidays falling on Saturday are typically observed on Friday.

# **TOWN OF WESTON EMPLOYEE PROFESSIONAL CONDUCT POLICY**

## **1. PURPOSE AND SCOPE**

The purpose of this document is to outline the Town's policy on conduct in the workplace, to ensure compliance with applicable federal laws, state statutes, town by-laws and to define standards of acceptable, appropriate work place behavior.

## **2. APPLICABILITY**

This policy applies to all employees of the Town of Weston (excluding those employees under the supervision and control of the School Committee) vendors, contractors, officials and members of the municipal community. Employees whose service is governed by collective bargaining agreement are subject only to those portions of this document which are not specifically regulated by agreement and/or policy.

## **3. POLICY**

The intent of this policy is to ensure that: 1) employees meet the Town's legitimate expectations in the areas of performance and behavior; 2) employees whose performance or behaviors are deficient are provided with the necessary assistance and motivation to meet the Town's expectations; and 3) disciplinary action initiated against an employee is fair and appropriate.

Town employees are expected to act honestly, conscientiously, reasonably and in good faith at all times having regard to their responsibilities, the interests of the Town and the welfare of its residents.

Employees have an obligation to be present at work as required and to be absent from the workplace only with proper authorization; to carry out their duties in an efficient and competent manner, and maintain specified standards of performance; to comply with reasonable employer instructions and policies and to work as directed; to respect the privacy of individuals and use confidential information only for the purposes for which it was intended; to neither use, nor allow the use of Town property, resources, or funds for other than authorized purposes; to incur no liability on the part of the Town without proper authorization; to maintain all qualifications necessary for the performance of their duties legally another person's character; and to ensure full compliance with federal and state laws and Town policies pertaining to public employment in the Town of Weston.

## **4. SANCTIONS**

An employee who violates this policy may be subject to discipline, up to and including termination.

# TOWN OF WESTON EMPLOYEE SEXUAL HARASSMENT POLICY

## 1. PURPOSE AND SCOPE

The purpose of this document is to outline the Town's policy on sexual harassment, and to ensure compliance with applicable federal laws, state statutes, and town by-laws.

## 2. APPLICABILITY

This policy applies to all employees of the Town of Weston (excluding those employees under the supervision and control of the School Committee) vendors, contractors, officials and members of the municipal community.

## 3. DEFINITIONS

Sexual Harassment --That conduct, including unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, which may constitute sexual harassment when:

- a. submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment;
- b. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- c. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Hostile Work Environment -- pervasive and sexually hostile working conditions which unreasonably interfere with an employee's ability to do his or her job.

Quid Pro Quo ("something for something") -- situation in which tangible job benefits are granted or withheld in exchange for sexual favors.

## 4. POLICY

The Town of Weston will not tolerate sexual harassment in the workplace. The duty to prevent such harassment arises from M.G.L. Chapter 151(B), and from Title VII of the U.S. Civil Rights Act of 1964 which includes sexual harassment as a form of unlawful discrimination. Retaliation against an employee who files a sexual harassment complaint, or who cooperates in an investigation of a sexual harassment complaint, is against the law and will not be tolerated by the Town of Weston.

## 5. PROCEDURES

### A. Supervisor Responsibilities

Department managers and appointing authorities are responsible for the following:

1. disseminating this policy to employees under their supervision;
2. informing employees that sexual harassment is prohibited conduct which will not be tolerated or condoned, and that disciplinary action will be taken against any person who engages in sexual harassment;
3. advising employees of their right to complain to the Town's Human Resources Director, the Massachusetts Commission Against Discrimination (MCAD), and/or

the U.S. Equal Employment Opportunity Commission (EEOC) (see Attachment A);

4. informing employees that it is advisable to report conduct which the employee believes to be sexual harassment in a timely manner; and
5. assisting the employee in the complaint resolution process.

#### **B. Employee Responsibilities**

Each employee is personally responsible for:

1. ensuring that his/her conduct does not sexually harass any other employee, applicant for employment, or other individual in the workplace;
2. cooperating in any investigation of a report or complaint of alleged sexual harassment; and
3. cooperating with the Town's efforts to maintain a working environment free from such unlawful discrimination.

#### **C. Sanctions**

Any employee found to have engaged in sexual harassment in violation of this policy will be subject to disciplinary action up to and including termination from Town service.

#### **6. COMPLAINT RESOLUTION PROCESS (See Attachment A)**

It is the goal of the Town of Weston to encourage employees to report incidents of sexual harassment immediately so that they may be addressed promptly. The process is designed to promote the sensitive handling of employee issues and the thorough investigation of complaints. Not all situations call for a full scale investigation. Sometimes it will be sufficient and most desirable to the employee complaining for a supervisor to inform the offender that certain behavior is in fact offensive. Sometimes formal complaints leading to disciplinary action will be appropriate. In either event, the person complaining must be able to receive the advice and support that he or she wants, and the Department Manager must receive the assistance he or she needs in addressing the complaint. At the same time, the rights of the person against whom the complaint is being made must also be protected.

Toward these ends, the Town Manager hereby designates the Director of Human Resources to serve as the Sexual Harassment Coordinator for Town. The Coordinator will be available as a resource to all Department Managers in preventing and addressing sexual harassment, and will coordinate or perform all investigations into complaints. The Coordinator should also be made aware of issues that are handled by supervisors or Department Managers in an informal manner so that the general environment within each Department is being monitored and more training on sexual harassment can be provided to employees of the Department when necessary

- A. Any individual who believes that he/she has been harassed in violation of this policy should report or complain about the situation as soon as possible. The report or complaint should be made to the department manager or the Human Resources Director if the complaint involves the department manager.
- B. All such complaints shall be handled promptly and investigated by the Human Resources Director in an impartial manner and kept as confidential as possible. Documents pertaining to such complaints will not be included in the personnel file of the employee

filing the complaint. Employees are required to cooperate in any investigation. Retaliation against any individual for filing a complaint or participating in an investigation is strictly prohibited.

- C. The Human Resources Director, shall prepare a written report of the findings of the investigation with recommendations to the Town Manager. If disciplinary action against an employee is deemed warranted, such action will be instituted by the Town Manager if the employee is under his/her jurisdiction. If not under the Town Manager's jurisdiction, the Town Manager shall report the findings of the Human Resources Director to the appropriate appointing authority.
- D. An employee who is unwilling to make a complaint to the Human Resource Director may file a complaint directly with the MCAD or EEOC. These agencies may investigate the situation and may or may not issue a complaint.

## **7. CONSIDERATIONS**

Sexual harassment is not, by definition, limited to prohibited conduct by a male employee toward a female employee, or by a supervisory employee to a subordinate employee. The Town's view of sexual harassment includes, but is not limited to, the following considerations:

- A. A man as well as a woman may be the victim of sexual harassment, and a woman may be the harasser.
- B. The harasser does not have to be the victim's supervisor. (S)he may be a supervisory employee who does not supervise the victim, a co-worker, or even a non-employee, such as a board member, member of the public, or a vendor to the Town.
- C. The victim does not have to be of the opposite sex from the harasser.
- D. The victim does not have to be the person at whom the unwelcome sexual conduct is directed. (S)he may also be someone who is affected by such conduct when it is directed toward another person. The sexual harassment of one employee may create an intimidating, hostile, or offensive working environment for another employee, or may unreasonably interfere with the co-worker's performance.
- E. Sexual harassment does not depend on the victim's having suffered a concrete economic injury as a result of the harasser's conduct. Improper sexual advances which do not result in the loss of a promotion by the victim, or the discharge of the victim, nonetheless constitute sexual harassment by unreasonably interfering with the victim's work or by creating a hostile or offensive work environment.
- F. "Quid pro quo" harassment includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature. It occurs when:
  - submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
  - submission to or rejection of such conduct by an individual is used as the basis for employment decisions, including hiring, firing, promotions, compensation, etc., affecting that individual.

Therefore, it is sexual harassment if an employee is told, or reasonably led to believe, that engaging in sexual conduct will have a positive effect on his or her employment situation or that failure to engage in sexual conduct will have a negative effect on his or her employment status.

G. “Hostile environment sexual harassment” exists when:

- the unwelcome sexual conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or of creating an intimidating, hostile, humiliating or offensive working environment.
- Among the things that can contribute to a hostile workplace or environment are:

discussions of individual employee’s sexual activities and/or interests;

magazines, books, posters, screen savers, etc., that display men or women in various stages of undress or in provocative poses;

birthday or farewell parties or other celebrations that feature cards, cakes, other food items or performances of a sexual nature;

touching or commenting on any traditionally sexual part of a person’s body;

continuing to invite an individual to engage in social or sexual activities after being informed that the individual is not interested;

continuing to refer to an individual using demeaning or inappropriate language after being asked to stop;

continuing to touch an individual in a nonsexual area of the body after being informed that such contact is not welcome;

leering at a person’s body;

jokes or stories of a sexual nature.

Whether behavior creates a hostile environment and thus constitutes sexual harassment will ultimately turn on the specific facts of the situation. Different people may view the same facts in a different light. Since it is not possible to define exactly what would and would not be found to be sexual harassment, all employees would be well advised to avoid behavior which comes close to the line.

Supervisors and managers need to be particularly aware that even behavior that appears to be accepted or tolerated can cause offense to those directly involved, or to those who might overhear or learn of such behavior. Asking whether people are offended is unlikely to address satisfactorily the problem since individuals may not feel comfortable speaking their minds. All such conversation should stop immediately if there is any indication from anyone that it is unwelcome or offensive.

**ATTACHMENT A**  
**WHAT TO DO IF YOU BELIEVE YOU HAVE BEEN SEXUALLY HARASSED**  
**FOR INFORMAL RESOLUTION OF YOUR SEXUAL HARASSMENT CONCERNS**

1. You can raise the issue in your Department with either your Supervisor or the Department Manager, who is your department's Sexual Harassment Coordinator.

OR

2. You can go to the Human Resources, whose telephone number at Town Hall is 781-786-5090.

OR

3. You can go to the Town Manager, who can be reached at the Town Hall by calling 781-786-5020

Wherever you go, attempts will be made to resolve the matter to your satisfaction.

**FOR PROCEEDING WITH A FORMAL COMPLAINT OF SEXUAL HARASSMENT**

1. You can file a written complaint through your Department with your supervisor or with the Department Manager,

OR

2. You can go to the Human Resources Director who will counsel you and then, as needed and appropriate, undertake an investigation into your complaint.

You are encouraged to bring your reports of sexual harassment to your supervisor or to your Department Manager at the earliest opportunity. If for any reason, however, you do not want to report the matter to your supervisor or to your Department Manager, you should feel free to report the harassment to the Human Resources Director or directly to the Town Manager. The Human Resources Director can advise you of your rights and assist and support you through the complaint process.

State and federal laws protect all employees from retaliation for filing a complaint of sexual harassment, or for cooperating in an investigation of a complaint of sexual harassment.

For more information, you can contact:

MCAD (Massachusetts Commission Against Discrimination)  
One Ashburton Place, Boston, MA 02108  
(617) 994-6000

EEOC (Equal Employment Opportunity Commission)  
John F. Kennedy Building 475 Government Center, Boston, MA 02203  
(800) 669-4000

# **TOWN OF WESTON EMPLOYEE HARASSMENT POLICY**

## **1. PURPOSE AND SCOPE**

The purpose of this document is to outline the Town's policy on harassment in the workplace, to ensure compliance with applicable federal laws, state statutes, Town by-laws and generally agreed upon standards of acceptable, appropriate work place behavior and to deal effectively and quickly with any incident that might occur.

## **2. APPLICABILITY**

This policy applies to all employees of the Town of Weston (excluding those employees under the supervision and control of the School Committee) vendors, contractors, officials and members of the municipal community.

## **3. DEFINITIONS**

Harassment - that conduct which subjects an employee to unwelcome verbal or physical conduct because of race, religious beliefs, color, national origin or ancestry, gender, mental or physical disability, marital status, family status, source of income, genetics, active military duty or sexual orientation. Examples of harassment which will not be tolerated are:

- verbal or physical abuse;
- threats;
- demeaning, insulting, intimidating or derogatory remarks, jokes, innuendo or taunts about any individual's beliefs, appearance, dress or body;
- the display of demeaning, insulting, offensive, intimidating or suggestive objects, signs or images, or
- demeaning, insulting, intimidating, suggestive or derogatory written, recorded, or electronically transmitted messages.

## **4. POLICY**

The Town of Weston will not tolerate harassment in the workplace and is committed to maintaining a work environment that is safe, productive and free from all forms of harassment. Harassment based on race, religion, national origin, sex, disability or sexual orientation is unlawful and prohibited in operations of the Town of Weston. Verbal or physical conduct by any individual that harasses, disrupts or interferes with another's work performance or that creates an intimidating, offensive or hostile environment shall not be tolerated. Retaliation against an individual who files a harassment complaint, or who cooperates in an investigation of a harassment complaint, is against the law and will not be tolerated by the Town of Weston.

## **5. PROCEDURES**

### **A. Supervisor Responsibilities**

Department managers and appointing authorities are responsible for the following:

1. disseminating this policy to employees under their supervision;

2. informing employees that harassment is prohibited conduct which will not be tolerated or condoned, and that disciplinary action will be taken against any person who engages in harassment;
3. informing vendors, contractors, and members of the municipal community that harassment is prohibited conduct which will not be tolerated or condoned and that action will be taken to protect employees from such harassment;
4. advising employees, et al. of their right to complain to the Town's Director of Human Resources;
5. informing employees, et al. that it is advisable to report conduct which the employee believes to be harassment in a timely manner; and
6. assisting employees, et al. in the complaint resolution process.

**B. Employee, Vendor, Contractor, Town Officials Responsibilities**

Each individual is personally responsible for:

1. ensuring that his/her conduct does not harass any other employee, applicant for employment, or other individual in the workplace;
2. cooperating in any investigation of a report or complaint of alleged harassment;
3. cooperating with the Town's efforts to maintain a work environment free from such unlawful and/or unacceptable discrimination;
4. telling the harasser his/her behavior is unwelcome and asking him/her to stop;
5. keeping a record of incidents (not necessary to file a complaint, but a record can strengthen a case); and
6. filing a complaint, reporting the problem to the department manager, the Assistant Town Manager/Human Resources or the Town Manager.

**C. Sanctions**

Any employee found to have engaged in harassment in violation of this policy will be subject to disciplinary action up to and including termination from Town service.

Any vendor, contractor or member of the municipal community found to have engaged in harassment in violation of this policy will be subject to actions which will prevent further such conduct and protect employees from exposure to an intimidating, offensive or hostile work environment, up to and including the termination of contracts or alteration of service provisions.

**6. COMPLAINT RESOLUTION PROCESS**

- A. Any individual who believes that he/she has been harassed in violation of this policy should report or complain about the situation as soon as possible. The report or complaint should be made to the department manager, the Human Resources Director or the Town Manager or his/her designee. It is the responsibility of the department manager to immediately inform the Human Resources Director or Town Manager of all reports/claims of harassment.
- B. All such complaints shall be handled promptly and investigated by the Human Resources Director, Town Manager or his/her designee in an impartial manner and kept as confidential as possible. Documents pertaining to such complaints will not be included in the personnel file of the employee filing the complaint. Employees, officials, contractors and vendors are required to cooperate in any investigation. Retaliation against any individual for filing a complaint or participating in an investigation is strictly prohibited.

- C. The Human Resources Director, Town Manager, or his/her designee, shall prepare a written report of the findings of the investigation. If disciplinary action against an employee is deemed warranted, such action will be instituted by the Town Manager if the employee is under his/her jurisdiction. If not under the Town Manager's jurisdiction, the Town Manager shall forward his/her findings to the appropriate appointing authority. If the complaint is against a vendor, contractor or member of the Weston community, and is deemed warranted the Town Manager shall discuss the matter with the harasser and institute appropriate action(s) to prohibit future incidents.
- D. Any complaints of harassment against an elected or appointed official shall be submitted to the Town Manager. If, in the opinion of the Town Manager, the complaint cannot be resolved informally between the parties, the Town Manager shall designate a third party to investigate the complaint, prepare a report of the findings and recommendations, and discuss those recommendations with the complainant and the elected or appointed official. The Town Manager may also exercise this third party option in any other harassment complaint scenario if such an option would be the most efficient, effective means of resolution in the best interest of the Town of Weston and the complainant. The third party shall be an individual who is a human resource professional or lawyer with requisite experience and training in such investigations.
- E. Any employee, supervisor or manager who is found to have violated the harassment policy will be subject to appropriate disciplinary action, up to and including termination. Any contractor, vendor or member of the public who is found to have violated the harassment policy will be subject to appropriate action, up to and including contract termination or other sanctions. The Town of Weston strictly prohibits any form of retaliation against anyone for bringing bona fide complaints or providing information about harassment. However, if an investigation of a complaint shows that the complaint or information was false, the individual who provided the false information will be subject to appropriate disciplinary action and/or sanction.

## **7. CONSIDERATIONS**

The Town of Weston has a separate and distinct policy regarding sexual harassment (see: Sexual Harassment Policy #203 or speak with the Human Resources Director for assistance). The Town of Weston has also adopted a policy against violence in the workplace and discrimination (see: Violence in the Workplace Policy #205 and/or Non-Discrimination Policy #201 or speak with the Humane Resources Director for assistance).

# TOWN OF WESTON EMPLOYEE NON-DISCRIMINATION POLICY

## 1. PURPOSE AND SCOPE

The purpose of this document is to outline the Town's policy of non-discrimination in all areas of employment for present and prospective employees, and to ensure compliance with applicable federal laws, state statutes, and Town bylaws. The duty to provide equal employment opportunity and to pursue affirmative action arises from Title VI and VII of the U.S. Civil Rights Act of 1964, M.G.L. c. 151 (B), Executive Order #11246 (as amended), and Executive Order #227.

## 2. APPLICABILITY

This policy applies to all employees of the Town of Weston (excluding those employees under the supervision and control of the School Committee) vendors, contractors, officials and members of the municipal community.

## 3. DEFINITIONS

**Affirmative Action** -- the commitment to the recognition, development, and utilization of the abilities of members of protected groups. Affirmative action is a process used to achieve the purpose and spirit of anti-discrimination laws.

**Equal Employment Opportunity** -- a course of action that ensures that hiring and other employment decisions are made solely on an individual's merit and qualifications, without regard to race, sex, age, color, religion, marital status, national origin or ancestry, genetics, sexual orientation, active military status or disability.

**Americans with Disabilities Act** -- the federal law enacted in 1990 to ensure nondiscrimination in employment against qualified individuals with disabilities.

**Discrimination** -- unequal treatment or categorization of individuals on a basis other than individual merit such as race, sex, age, color, religion, marital status, national origin or ancestry, genetics, sexual orientation, active military status or disability.

**Individual with a Disability** -- an individual who has a physical or mental impairment that substantially limits one or more of his or her major life activities or who has a record of such an impairment, or who is regarded as having such an impairment. An individual who currently uses drugs illegally, or is a practicing addict or alcoholic, is not considered to be an individual with a disability.

**Major Life Activities** -- activities that an average person can perform with little or no difficulty, such as walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself, or working.

**Minority** -- the term minority means a person with permanent residence in the United States who is defined as a minority by the federal government.

**Qualified Individual with a Disability** -- an individual with a disability who meets the skill, experience, education, and other job-related requirements of a position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of the particular job.

**Reasonable Accommodation** -- a modification or adjustment to a job, employment practices, or work environment that makes it possible for an individual with a disability to enjoy an equal employment opportunity.

**Sexual Harassment** -- unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

**Undue Hardship** -- an action that is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the department.

#### **4. POLICY**

The Town of Weston recognizes the right of individuals to work and advance on the basis of merit, ability and potential without regard to race, sex, age, color, religion, marital status, national origin or ancestry, genetics, sexual orientation, active military status or disability. Non-discrimination and equal opportunity will be the policy of the Town of Weston in all of its employment programs and activities.

Toward this end, the Town of Weston commits itself to take affirmative measures to ensure equal opportunity in the areas of hiring, promotion, demotion or transfer, recruitment, layoff or termination, rate of compensation, in-service or apprenticeship training programs, and all terms and conditions of employment. The Town of Weston is committed to fostering and encouraging a workplace comprised of individuals of diverse backgrounds.

**4.1** All Town employees are encouraged to take diligent, affirmative steps to ensure equal opportunity and respect for diversity, not only in the internal affairs of Town departments and agencies, but also in their relations with the public, including those persons and organizations doing business with the Town. The policy of the Town of Weston is to:

- Recruit, hire and promote in all job classifications without regard to race, sex, age, color, religion, marital status, national origin or ancestry, genetics sexual orientation, active military status or disability.
- Make decisions about employment so as to encourage the development of a diverse workforce.
- Ensure that employment and promotion decisions are made in accordance with the principles of equal employment opportunity, by imposing only valid, job-related requirements for employment and promotional opportunities.
- Ensure that all other personnel actions such as compensation, benefits, transfers, layoff, recall, training, tuition assistance, and social and recreational programs will be administered without regard to race, sex, age, color, religion, marital status, national origin or ancestry, genetics, sexual orientation, active military status or disability.

- Prohibit any kind of harassment based on race, sex, age, color, religion, marital status, national origin or ancestry, genetics, sexual orientation, active military status or disability.
- Prohibit use of both direct and indirect derogatory language regarding race, sex, age, color, religion, marital status, national origin or ancestry, genetics sexual orientation active military status, or disability.

#### **4.2 Sexual Harassment**

The Town of Weston will not tolerate sexual harassment in the workplace. The duty to prevent such harassment arises from M.G.L. c. 151B and from Title VII of the U.S. Civil Rights Act of 1964, which includes sexual harassment as a form of unlawful discrimination.

#### **4.3 Americans with Disabilities**

The Town of Weston will not discriminate against people with disabilities in any employment practices or in terms or conditions of employment, including, but not limited to application, testing, hiring, assignment, evaluation, disciplinary action, training, promotion, medical examination, layoff, recall, termination, compensation, leaves or benefits.

### **5. PRE-EMPLOYMENT PROCEDURES**

In accordance with the Town's Hiring and Recruitment Policy, all prospective candidates will have the opportunity to self-identify as disabled or as a member of a protected group.

- 5.1** Self-identification Forms may be used by the hiring department in order to promote equal employment opportunity. The hiring department will not keep a copy of the Self-identification Form.
- 5.2** Hiring managers shall be mindful of the goal of fostering diversity during the hiring process.

### **6. GRIEVANCE PROCEDURE**

- 6.1** The purpose of this procedure is to encourage local resolution of grievances concerning employment. It is important to note that grievors are not required to exhaust the Town's procedures prior to filing a state or federal complaint or taking court action.
- 6.2** Anyone who feels that he or she has been discriminated against by the Town of Weston on the basis of race, sex, age, color, religion, marital status, national origin or ancestry, genetics, sexual orientation, active military status or disability in employment practices may file a grievance.
- 6.3** The grievance should be in writing and should contain information about the alleged discrimination, including name, address, phone number of griever and location, date and description of the problem. Reasonable accommodation, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities who are unable to submit a written complaint.
- 6.4** The griever should first attempt to resolve the grievance at the level of the Department Manager. The Department Manager will notify the Human Resources Director if such a grievance is submitted.

- 6.5** If the grievance is not resolved to the satisfaction of the griever, or if the Department Manager lacks authority or jurisdiction to correct the problem, the grievance should be submitted in writing by the griever and or his/her designee as soon as possible to:

Human Resources Director  
Town Hall  
11 Town House Road  
Weston, MA 02493  
781-786-5090

- 6.6** Within fifteen (15) calendar days after receipt of the grievance, the Human Resources Director will meet with the griever to discuss the grievance and possible resolutions. Within fifteen (15) calendar days after the meeting, the Human Resources Director will respond to the griever in writing, or, where necessary, in a format accessible to the griever. The response will explain the position of the Town of Weston and may offer options for substantive resolution of the grievance.
- 6.7** If the response by the Human Resources Director does not satisfactorily resolve the issue, the griever may appeal the decision of the Human Resources Director to the Town Manager by filing a written appeal within fifteen (15) calendar days of receipt of the decision of the Human Resources Director.
- 6.8** Within fifteen (15) calendar days of receipt of the appeal, the Town Manager will meet with the griever to discuss the grievance and possible resolutions. Within fifteen (15) calendar days after the meeting with the Town Manager, the Town Manager will respond in writing, or, where necessary, in a format accessible to the griever, with a final resolution of the grievance.
- 6.9** All documentation resulting from the grievance procedure will be kept in the Town of Weston Human Resources Office. Such documents will remain as confidential as circumstance and/or the law will permit.
- 6.10** This grievance procedure is meant to be informal, and cannot be legally binding on either party. Any grievance or complaint involving existing or threatened civil or criminal litigation may not be addressed using this informal procedure.

## **7. COMPLAINANT PROTECTION**

No retaliatory action will be taken against those persons who file complaints of sexual harassment or discrimination (believed by them to be true) on the basis of race, sex, age, color, religion, marital status, national origin or ancestry, genetics, sexual orientation, active military status or disability, or against individuals who cooperate in such investigations. Anyone knowingly making false accusation or filing complaints for the purpose of malicious intent will be subject to disciplinary action.

## **8. SANCTIONS**

Violation of this policy by Town employees will lead to appropriate disciplinary action up to and including termination from Town service.

**Attachment A**

**Affirmative Action Officer**

Donna VanderClock  
Town Manager  
Town Hall  
P.O. Box 378  
Weston, MA 02493  
781-786-5020

**Affirmative Action Officer Designee**

Lisa Yanakakis  
Assistant Town Manager/Human Resources Director  
Town Hall  
P.O. Box 378  
Weston, MA 02493  
781-786-5090

**Massachusetts Commission Against Discrimination**

MCAD  
One Ashburton Place  
Room 601  
Boston, MA 02108  
617-994-6000

**United States Equal Employment Opportunity Commission**

EEOC Boston Office  
John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203  
617-565-3200  
617-565-3204 (TTY)

# **TOWN OF WESTON EMPLOYEE WORKPLACE VIOLENCE POLICY**

## **1. PURPOSE AND SCOPE**

The Town of Weston maintains a zero tolerance policy toward workplace violence, or the threat of violence, by any of its employees, customers, the general public, and/or anyone who conducts business with the Town. The Town aims to provide a workplace which is free from intimidation, threats, or violent acts.

## **2. DEFINITIONS**

Workplace violence includes, but is not limited to harassment, threats, physical attack, or property damage. A threat is the expression of an intention to cause physical or mental harm regardless of whether the person communicating the threat has the present ability to carry out the threat and regardless of whether the threat is contingent, conditional or future. Physical attack is intentional hostile physical contact with another person such as hitting, fighting, pushing, shoving, or throwing objects. Property damage is intentional damage to property which includes property owned by the Town, employees, or others.

## **3. APPLICABILITY**

This policy applies to all employees of the Town of Weston (excluding those employees under the supervision and control of the School Committee) vendors, contractors, officials and members of the municipal community.

## **4. POLICY**

The Town subscribes to the concept of a safe work environment and supports the prevention of workplace violence. Prevention efforts include, but are not limited to informing employees of this policy, instructing employees regarding the dangers of workplace violence, communicating the sanctions imposed for violating this policy, providing a reporting hierarchy within which to report incidents of violence without fear of reprisal; and prohibiting all employees who are not sworn officers of the Police Department from possession of a firearm, or other dangerous weapon as listed in Chapter 269, Section 10 of the Massachusetts General Laws, on Town property or in a Town vehicle.

## **5. PROCEDURES**

**5.1** Each incident of violent behavior, whether the incident is committed by another employee or an external individual such as a customer, vendor, or citizen, must be reported to the Department Manager. The Department Manager will assess and investigate the incident and determine the appropriate action to be taken. The Department Manager will inform the Town Manager of all reported incidents of workplace violence and will inform the employee who is victimized of their right to have the Police Department notified. The Department Manager will commit to writing the facts surrounding any incident of violent behavior.

**5.2** In critical incidents in which serious threat or injury occurs, emergency responders such as Police, Fire and/or Ambulance personnel must be promptly notified. As necessitated by the seriousness of the incident, the Town Manager may assemble a Management Response Team that consists of staff from the Department subjected to the act or threat of violence, Human Resources Department, Town Counsel, and may include the Employee Assistance Program, Police Department and others as deemed necessary.

The Management Response Team is responsible for establishing the prescribed actions to be taken in order to address a threat or violent incident. Such actions may include, but are not limited to:

- evaluating the potential violence problems,
- assessing an employee's fitness for duty (through mental health professionals),
- 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,
- assuring that immediate (within 24 hours) and on-going counseling is available to traumatized employees.

**5.3** Any employee who acts in good faith by reporting real or implied violent behavior will not be subjected to any form of retaliation or harassment. Any action of this type resulting from a report of violence must be reported to the appropriate Department Manager and/or Human Resources Director for investigation and decision regarding proper action.

**5.4** On an as needed basis, the Department Manager may request a security audit from the Police Department to identify appropriate workplace security measures. All employees should openly communicate with each other to be aware of any unusual activity that may identify the potential for or actual occurrence of a violent incident.

**5.5** The Human Resources Director, or his/her designee, will orient all new employees to procedures set forth in this policy regarding reporting incidents of violence, what to do if the employee is threatened and/or if an incident of violence actually takes place, and steps for dealing with the after effects of an act of violence.

**5.6** Department Managers may offer additional referral services from the Town's Employee Assistance Program to any employee who becomes the victim of an incident of workplace violence.

## **6. SANCTIONS**

It is a violation of this policy to engage in any act of workplace violence. Any employee who has been determined by the Town Manager, Department Manager, or Police to be in violation will be subject to disciplinary action up to and including termination and, depending upon the violent act, may be subject to criminal sanctions.