



Town of Wellesley  
Human Resources Board  
Proposed Personnel Policy Updates  
Article 11 Motion 1

**If you have questions, please email Scott Szczebak at [sszczebak@wellesleyma.gov](mailto:sszczebak@wellesleyma.gov)**

## TOWN OF WELLESLEY PERSONNEL POLICY UPDATES

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## **EQUAL EMPLOYMENT OPPORTUNITY**

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The Town of Wellesley is an equal employment opportunity employer. It will not discriminate against employees or applicants for employment on any legally recognized basis, including race, color, religious creed, sex (including pregnancy, childbirth and related medical conditions), gender identity or expression, sexual orientation, national origin or ancestry, physical or mental disability/handicap, age (40 and over), military or veteran status, marital status, certain criminal records, genetic information or testing, or HIV testing. The Town of Wellesley will not tolerate discrimination or harassment based upon these characteristics or any other characteristic protected by applicable federal, state, or local law. This policy governs all aspects of employment, including selection, job assignment, compensation, discipline, termination, and access to benefits and training. Employees may discuss equal employment opportunity-related questions with the Director of Human Resources. Employees can raise concerns and make reports without fear of reprisal or retaliation.

## PREVIOUS LANGUAGE

The policy of the Town of Wellesley is to achieve equal opportunity in employment and selection:

1. By the recruitment and consideration of applicants without regard to factors unrelated to ability to perform the requirements of the job such as race, creed, color, sex, age, national origin, disability, veterans status, or sexual orientation.
2. By the employment of individuals who meet the physical and mental requirements, with reasonable accommodation, and who have the education, training and experience, established and necessary for the performance of the job, without regard to race, creed, color, sex, age, national origin, disability, veterans status, sexual orientation, or other factors unrelated to ability to perform the requirements of the job.
3. By taking such affirmative action as may be necessary to identify any conditions or employment practices which may have contributed to underrepresentation of protected classes in the workforce and to correct any such conditions including but not limited to the pursuit of the hiring goals established in Appendix A to this policy, Affirmative Action Plan.
4. By the retention, promotion and termination of employees on a non-discriminatory basis, and by non-discrimination in compensation and in terms, conditions, and privileges of employment.

## **POLICY AGAINST DISCRIMINATION, HARASSMENT AND RETALIATION**

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The Town of Wellesley is committed to promoting and maintaining a workplace that is free of harassment. The Town of Wellesley strictly prohibits discrimination and/or harassment based on an applicant's or employee's race, color, religious creed, sex (including pregnancy, childbirth and related medical conditions), gender identity or expression, sexual orientation, national origin or ancestry, physical or mental disability/handicap, age (40 and over), military or veteran status, marital status, certain criminal records, genetic information or testing, HIV testing, or any other characteristic protected by law.

All employees, regardless of position, are covered by, and are expected to comply with, this policy and to take appropriate measures to ensure that prohibited conduct does not occur. This policy against harassment also covers other individuals who have a relationship with the Town and may include residents, independent contractors, vendors, and visitors.

Conduct is considered harassment and is prohibited by this policy when it has the purpose or effect of unreasonably interfering with an employee's work performance, or creating an intimidating, hostile, or offensive work environment. Harassment can be physical, visual, electronic, verbal, or nonverbal behavior, and can include stereotypical terms, derogatory statements, abusive language, and discriminatory remarks that are offensive or objectionable to the recipient and involve a protected characteristic. While in some cases individuals may make harassing comments or jokes or engage in physical conduct without intending harm, such actions can be unwanted, offensive, threatening, and perceived as harassment.

The Town of Wellesley takes all allegations of harassment seriously and responds promptly to complaints of harassment. The Town of Wellesley will not tolerate retaliation against an individual who, in good faith, has complained about harassment or against an individual who cooperates with an investigation into a complaint of harassment. Retaliation is a serious violation of this policy and should be reported immediately. Anyone who is found to have retaliated against an employee for complaining about or reporting a harassment complaint, or for cooperating or otherwise participating in a harassment investigation, will be subject to discipline, up to and including termination of employment.

When the Town of Wellesley determines that inappropriate conduct has occurred, it will act promptly to eliminate the conduct and impose such corrective and remedial action as is necessary, including disciplinary action and termination where appropriate. Corrective action taken will be proportionate to the offensiveness of the conduct. For example, sexual assault or a demand for sexual favors in return for a promotion may result in termination of an employee; the continued use of derogatory gender-based language after an initial warning may result in a suspension; and the first instance of telling an inappropriate joke may warrant a warning. Remedial action, such as training or re-training, may be in order as well. These are examples only; each circumstance will be judged on its own merits and may warrant different corrective action.

While this policy sets forth the Town's goals of promoting a workplace that is free of harassment, the policy is not designed or intended to limit its authority to discipline or take remedial action for workplace conduct which it deems unacceptable, regardless of whether that conduct satisfies the definition of harassment.

Sexual harassment, one of the most common forms of harassment, is unwelcome verbal or physical behavior based upon a person's gender/sex and includes unwanted verbal or physical sexual advances, requests for sexual favors or visual, verbal, or physical conduct of a sexual nature when:

- Submission to such conduct is made a term or condition of employment; or

- Submission to, or rejection of, such conduct is used as a basis for employment decisions affecting the individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment, even if the individual making the report is not the intended target of such conduct.

Sexual harassment is a form of unlawful discrimination under federal and state law and Town policy. Determinations of whether particular language or conduct is subject to disciplinary action under this policy are made on an individual basis in light of all of the circumstances. The following, however, are some additional examples of conduct that all employees of the Town of Wellesley are cautioned to avoid. Such conduct may violate the Town of Wellesley's policy against sexual harassment, whether or not it constitutes sexual harassment under the law.

***This is not an exhaustive list.***

- Unwelcome sexual flirtations, advances, or propositions, whether or not they involve sexual touching;
- Comments to, or about, any employee or their appearance that are sexual in nature or would otherwise tend to be degrading;
- Offensive sexually-oriented verbal comments, name-calling, whistling, epithets, slurs, mockery, ridicule, insults, put-downs, or teasing;
- Offensive physical contact such as unwanted patting, grabbing, pinching, brushing against another's body, hugging, tickling, cornering, impeding or blocking movement, or forced sexual intercourse or assault;
- Jokes or other remarks with sexual content that are graphic or that may otherwise be offensive to others;
- Viewing, displaying or distributing inappropriate or sexually-explicit material in any medium;
- A repetition of any words or conduct of a sexual or gender-based nature;
- Repeated unwelcome invitations to social engagements or non-work-related activities;
- Discussion of or inquiries into one's sexual activities or experiences, gossip regarding one's sex life, or comment about an individual's sexual activity, deficiencies, or prowess; or
- Texting, sending picture messages, or otherwise communicating inappropriately in a sexual manner via cell phones, smartphones, over the internet, using social media, or the like.

Examples of other forms of harassment include the following:

- Conduct that unreasonably interferes with an individual's work performance that creates an intimidating or offensive work environment, that otherwise adversely affects an individual's employment opportunities, and that implicates an employee's protected characteristic. This can include conduct via texting, sending picture messages, or otherwise communicating inappropriately via cell phones, smartphones, over the internet, using social media, or the like.
- Hostile physical contact, intimidating acts, threats of such actions or violence, or any other actions that may be considered threatening or hostile in nature and that implicate an employee's protected characteristic.
- Derogatory remarks, epithets, slurs, negative stereotyping, offensive jokes, cartoons, teasing, the display or circulation of offensive printed, visual, or electronic materials, or similar misconduct that implicates an employee's protected characteristic.

Any employee who believes that they have been subject to behavior prohibited under this policy is encouraged to promptly report the matter using the complaint procedure described below. It is a violation of the Town of

Wellesley's policy and it is unlawful to retaliate against an employee who in good faith makes or files a complaint of harassment or cooperates in an investigation of a complaint of harassment. Any such retaliation will also result in disciplinary action, up to and including termination of employment. An employee who engages in sexual harassment is subject to disciplinary action, up to and including termination of employment. A manager who knowingly allows sexual harassment or retaliation to continue is subject to disciplinary action, up to and including termination of employment.

### Internal Complaint Procedure

Common workplace-based responses by those who experience harassment are to avoid the harasser, deny or downplay the gravity of the situation, or attempt to ignore, forget, or endure the behavior. The Town urges employees, instead, to speak up and report any harassment. This applies whether the harassment is by any employee or other individual who has a relationship with the Town which enables it to exercise some control over the individual's conduct in places and activities that relate to the Town's work. This reporting system applies to those individuals who have *experienced* harassment, as well as those employees who have *observed* harassment.

Employees subjected to harassment are encouraged to directly inform the offending person(s) that such conduct is offensive and must stop if they are comfortable in so doing. If, however, the employee does not wish to communicate directly with the alleged harasser(s), or if direct communication has been ineffective, then that employee is encouraged and expected to utilize this procedure.

If an employee believes that they have been subjected to sexual or other forms of harassment or discrimination, whether by a supervisor, a co-worker, or any other person with whom the employee comes in contact with during work for the Town of Wellesley, the employee should report the incident immediately to their Department Head or the Human Resources Director, Town Hall, 525 Washington Street, Wellesley, MA (781-431-1019, x2244). If the complaint is against a member of the Human Resources Department staff, employees may also contact Town Counsel.

### Harassment Investigation

The Town of Wellesley's policy is to support anyone who makes a good-faith complaint of harassment or discrimination. When we receive a complaint, we will promptly and thoroughly investigate the allegation, and will strive to maintain confidentiality to the extent practicable under the circumstances. The investigation will include interviews with the person making the complaint, the alleged harasser, and any witnesses. It is the responsibility of every employee who participates in the investigation to cooperate fully and to refrain from discussing the matter with persons other than those conducting the investigation so that confidentiality is maintained to the greatest extent possible while the investigation is ongoing. When the Town has completed its investigation, it will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

### External Complaint Procedure

In addition to the above, if you believe you have been subjected to harassment or discrimination, you may file a complaint with either or both of the government agencies set forth below. Using the Town of Wellesley's complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (300 days).

The United States Equal Employment Opportunity Commission (EEOC)  
John F. Kennedy Federal Building

475 Government Center  
Boston, MA 02203  
(617) 565-3200

The Massachusetts Commission Against Discrimination (MCAD)

Boston Office:  
One Ashburton Place, Rm. 601  
Boston, MA 02108  
(617) 994-6000

Springfield Office:  
424 Dwight Street, Rm. 220  
Springfield, MA 01103  
(413) 739-2145

Worcester Office:  
488 Main Street, Rm. 320  
Worcester, MA 01608  
(508) 453-9630

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

## PREVIOUS LANGUAGE

### *SEXUAL HARASSMENT POLICY*

#### I. Introduction

It is the goal of the Town of Wellesley to promote a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

Because Town of Wellesley takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

#### II. Definition of Sexual Harassment

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

- a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or
- b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such a favorable review, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment. The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

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

- \* Sexual advances--whether they involve physical touching or not;
- \* Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;

- \* Displaying sexually suggesting objects, pictures, cartoons;
- \* Leering, whistling, brushing against the body, sexual gestures, suggesting or insulting comments;
- \* Inquiries into one's sexual experiences; and
- \* Discussion of one's sexual activities.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated.

### III. Complaints of Sexual Harassment

If any of our employees believes that he or she has been subjected to sexual harassment, the employee has the right to file a complaint with our organization. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting your Department Head or the Personnel Director, Town Hall, 525 Washington Street, Wellesley, MA (617-431-1019, x244) or Town Counsel, Attorney Albert Robinson, 40 Grove Street, Wellesley, MA 02181 (617-235-3300). These persons are also available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process.

### V. Sexual Harassment Investigation

When we receive a complaint of sexual harassment we will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent consistent with a fair and full investigation and practicable under the circumstances. Our investigation will include private interviews with the person filing the complaint, and with witnesses. We will also interview the person alleged to have committed sexual harassment. When we have completed our investigation, we will, to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where it is appropriate we will also impose disciplinary action.

### V. Disciplinary Action

If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as we deem appropriate under the circumstances.

### VI. State and Federal Remedies

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short period for filing a claim (EEOC: 180 days; MCAD: 6 months).

1. The United States Equal Employment Opportunity Commission (EEOC)  
1 Congress Street, 10th Floor  
Boston, MA 02114 (617)565-3200

## 2. The Massachusetts Commission Against Discrimination (MCAD)

### Boston Office:

1 Ashburton Place, Rm. 601  
Boston, MA 02108  
(617) 994-6000

### Springfield Office:

424 Dwight Street, Rm. 220  
Springfield, MA 01103  
(413)739-2145

## **FAMILY MEDICAL LEAVE (FMLA)**

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### Eligibility for FMLA Leave

Employees are eligible for FMLA leave if they have worked for Town of Wellesley for at least one year, and for 1,250 hours over the previous twelve (12) months.

### Types of FMLA Leave

Eligible employees can take FMLA leave for the following reasons:

#### *Parental Leave*

Employees may take FMLA leave for incapacity due to pregnancy, prenatal medical care or childbirth. Such leave may also be used by male and female employees to care for the employee's child after birth, or placement for adoption or foster care.

#### *Leave due to the Employee's Own or a Family Member's Serious Health Condition*

Employees may take FMLA leave for a serious health condition that makes the employee unable to perform their job. Employees may also take FMLA leave to care for the employee's spouse, son, daughter, or parent who has a serious health condition.

#### *Qualifying Exigency Leave*

Eligible employees with a spouse, son, daughter, or parent on active duty or called to active duty status in (a) the National Guard or Reserves in support of a contingency operation, or (b) the regular armed forces who are in or called to active duty in a foreign country may use FMLA leave to address certain qualifying exigencies.

Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial or legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

#### *Military Caregiver Leave*

Eligible employees may take FMLA leave to care for a son, daughter, parent or next of kin who is a covered service member. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform their duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. Covered service members also include veterans who are undergoing medical treatment, recuperation or therapy for serious injuries or illnesses that were incurred or aggravated in the line of duty during the preceding five (5) years.

### Length of FMLA Leave

Employees may take up to 26 weeks of Military Caregiver leave during a single 12-month period.

For all other types of FMLA leave, each employee may be granted leave for a period up to twelve (12) weeks during any twelve-month period. In determining eligibility for leave, a "rolling" twelve-month period is used, measuring backward from the date the employee uses any FMLA leave.

In circumstances where both spouses work for the Town of Wellesley, the employees may be limited to a combined total of 12 weeks of leave for parental leave or for leave to care for the employee's parent with a serious health condition, or to a combined total of 26 weeks of military caregiver leave.

If an employee is eligible for FMLA leave and takes time off for an FMLA-qualifying purpose, such leave shall be counted as FMLA leave. Leaves taken pursuant to other Town of Wellesley policies (for example, workers' compensation, parental leave, short-term disability) shall be deemed to run concurrently with FMLA leave.

### Required Certifications

Different certifications are required depending on the reason for leave. Employees seeking leave due to a family member's serious health condition will be required to submit a completed "Certification of Health Care Provider for Family Member's Serious Health Condition" form. Employees seeking FMLA leave due to the employee's own serious health condition will be required to submit a completed "Certification of Health Care Provider for Employee's Serious Health Condition" form. Employees seeking Qualifying Exigency Leave will be required to submit a completed "Certification of Qualifying Exigency for Military Family Leave" form. Employees seeking Military Caregiver Leave will be required to submit a completed "Certification of Serious Injury or Illness of Covered Service member" form. In lieu of the form, the employee may provide invitational travel orders (ITOs) or invitational travel authorizations (ITAs). These forms are available from the Director of Human Resources.

In all cases of leave due to the employee's or a family member's serious health condition, the Town of Wellesley reserves the right to request a second medical opinion at the Town's expense and further medical opinion, where appropriate. Periodic recertification also may be required for requested extensions of medical leave, lengthy leaves of absence, and for such other appropriate circumstances.

The Town of Wellesley asks that employees not provide any genetic information when submitting the required certifications. Genetic information includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

### Compensation During FMLA Leave

Employees on FMLA leave are required to apply any accrued paid time off while taking FMLA leave. Employees must comply with the Town of Wellesley's existing policies for use of accrued paid time off.

If an employee does not have any accrued paid time and is not eligible for other benefits, such as workers' compensation payments, the FMLA leave will be unpaid.

### Benefits During FMLA Leave

An employee on FMLA leave will be retained on the Town of Wellesley's health plan on the same condition as active employees, except that the employee must make arrangements with Human Resources for timely payment of the employee's portion of the premium in order to continue such coverage. If any premium payment is more than thirty (30) days late, coverage may be lost during the remainder of the leave. In

circumstances where an employee is on paid leave, the appropriate deductions will be made in the same manner as the employee's regular paycheck.

Reduced Work Schedule/Intermittent FMLA Leave

For all types of FMLA leave except Parental leave, an employee does not need to use the leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the Town of Wellesley's operations. Further, where a reduced work schedule or intermittent leave is foreseeable based on planned medical treatment, the Town reserves the right to temporarily transfer the employee to a position that better accommodates the employee's recurring periods of leave.

Notifications Regarding FMLA Leave

Employees requesting leave will be notified regarding whether they are eligible under FMLA. If they are eligible, the notice will specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the Town will provide a reason for the ineligibility.

The Town will inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the Town determines that the leave is not FMLA-protected, the employee will be notified.

Return from FMLA Leave

Upon return from FMLA leave, an employee will be restored to their original or equivalent position with equivalent pay, benefits, and other employment terms, subject to the terms and conditions of the FMLA.

If an employee is unable to return from FMLA leave on the date set forth in the leave request and/or certification of healthcare provider, the employee is expected to contact the Town of Wellesley *prior to* the anticipated return to work date. If an employee fails to return from FMLA leave when scheduled and does not contact the Town in advance, the employee may be deemed to have resigned.

## PREVIOUS LANGUAGE

### *Leaves of Absence*

#### I. PURPOSE

To define the leave of absence policy of the Town of Wellesley and to establish the criteria and procedures for granting such leaves in compliance with the Federal Family and Medical Leave Act (FMLA) effective 8/5/93.

#### II. POLICY

To protect deserving employees against loss of seniority and service credit, to the extent it is practical and fair to do so, by granting leaves of absence without pay for education, military, health, or compelling personal reasons on the recommendation of the employee's Department Head and with the approval of the Personnel Board, in accordance with existing laws. Employees granted leaves in accordance with this policy and procedure shall be considered in an "inactive employment" status and time, other than military duty, spent on such leaves of 30 days or more shall not count as service or time worked for purposes of seniority, vacation, sick leave, pensions or other benefits.

#### III. APPLICATION

This policy applies to all permanent employees who have completed their respective probationary period with the Town and who regularly work twenty or more hours per week and have worked 1,250 hours (military leave exempt) in the year preceding the leave. (Special exemptions or conditions may apply to teachers and senior level managers per the FMLA).

#### IV. DEFINITIONS

- A. Department Head: An employee responsible for the administration of a function or activity under the direction of an elected or appointed Board, Committee, or Commission.
- B. Teaching Personnel: Professional personnel in the schools whose duties and responsibilities are academic rather than administrative (personnel in bargaining units A & B).
- C. Senior Level Management: As defined in the Federal Family and Medical Leave Act, those administrative positions which are paid in the top 10% of Town salaries.

#### V. PROCEDURE

- A. Employees unable to report to work because of military duty; maternity; serious personal health; serious illness of a spouse, child or parent; or for compelling personal reasons, or those who wish to attend school, shall submit an application for a Leave of Absence on the form attached to this policy. The application must specify dates and time for which leave is requested and set forth the reasons in detail. Whenever possible, application must be submitted at least thirty (30) days in advance of the intended leave. In the case of military, health, and education leaves, supporting documents shall be required.
- B. A supervisor will verify and substantiate the reasons submitted by the employee whenever possible, and after due consideration of the requirements of the Department and the employee's length of service/successful completion of probationary period, will forward the request with his recommendations to his Department Head for transmittal to the Personnel Office.
- C. A Department Head recommending approval of the leave of absence should do so on a Personnel Action Form and attach the Application for Leave of Absence with supporting documents.

D. Leaves of Absence may be granted as follows:

1. for extended active military service in accordance with appropriate statutes.
2. for 17 calendar days per year for Reserve or National Guard duty for training.
3. until the completion of the course of instruction but not more than one semester.
4. for up to a total of twelve (12) weeks in a twelve month period for a, b, or c, or combinations of a, b, or c:

a) the birth or adoption of a child as set forth in applicable law. (NOTE: When the employee herself is incapacitated for medical reasons due to pregnancy, it shall be treated as any other physical incapacity for which extensions may be granted on the recommendation of the attending physician.)

b) serious personal illness rendering an employee incapable of performing the functions of the job.

c) serious illness of a spouse, child, or parent as specified in the FMLA.

5. for up to thirty (30) days in a 12 month period for compelling personal reasons.

E. The twelve month cycle will begin with the first actual day of the employee's leave.

F. Accrued sick and vacation time may be used during leaves for serious personal illness, serious illness of a spouse, child or parent, or the birth/adoption of a child.

G. Leaves that qualify as conditions under the Federal Family and Medical Leave Act which are taken under any other provision shall run concurrently.

H. Employees granted leave of absence in accordance with this policy may remain in their Town of Wellesley Group Health Insurance Plan, provided arrangements are made with the Treasurer of the Town for payment of the employee portion of the current monthly premium for the duration of the leave of absence. Employees who fail to make a monthly payment in a timely manner for the employee contribution portion of the premium will be notified and automatically dropped from the plan once they become thirty (30) days in arrears.

## VI. ENFORCEMENT

Failure to return to work on or before the expiration date of a leave of absence shall constitute a voluntary termination of employment. Acceptance of employment of any kind for pay while on leave of absence (other than military) shall be considered to be voluntary resignation on the part of the employee. The respective Department Head and the Director of Personnel are responsible for uniform and impartial administration of this policy and

## **PARENTAL LEAVE**

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Eligible full-time employees are entitled to take up to eight (8) weeks of unpaid leave for the:

- Birth of a child; or
- Placement for adoption or placement pursuant to a court order of a child under eighteen (18) years of age (or under 23 years of age if the individual is mentally or physically disabled).

Employees are entitled to up to eight (8) weeks of leave per child. If both spouses work for the Town of Wellesley and are eligible for leave under this policy, the spouses will be limited to a total of eight (8) work weeks off between the two.

Employees are eligible for leave under this policy if they are full-time and have been employed by the Town of Wellesley for at least three (3) consecutive months.

### Notice of Leave

Employees must give at least two (2) weeks' notice of their anticipated date of departure and intention to return to work. If the need for leave arises under circumstances that, for reasons beyond the employee's control, do not allow for two (2) weeks' notice, employees must give notice as soon as practicable.

### Terms of Leave

Parental leave is unpaid, unless an employee chooses to use accrued paid vacation, personal and/or sick leave concurrently with all or part of the leave. Sick leave may only be used during portions of the parental leave that qualify for leave under the Town of Wellesley's sick leave policy. The Town will not require an employee to use accrued paid vacation or sick leave concurrently with any part of a parental leave. However, if an employee's parental leave qualifies as leave under the Family and Medical Leave Act, the two (2) leaves will run concurrently. Eligible employees may apply for disability benefits related to their childbirth and/or pregnancy-related disabilities under the same terms and conditions that apply to other medical disabilities.

### Return to Work

At the conclusion of parental leave, employees will be reinstated to their previous position or a similar position with the same status, pay, length of service credit and seniority as of the date of their leave, unless other employees of equal seniority and status in the same or similar position were laid off due to economic conditions or other changes in operating conditions during the employee's parental leave. If an employee requests and is granted an extension of parental leave beyond eight (8) weeks, and if this extension is not covered by any other statute such as the FMLA, the employee's job will not be protected beyond the initial 8-week period. Under these circumstances, the Town of Wellesley provides no assurance the employee will be restored to their previous position or a similar position when the extension expires.

### Anti-Discrimination and Retaliation

The Town of Wellesley will not discriminate or retaliate against employees because they request or take leave in accordance with this policy.

## **PREGNANCY AND LACTATION ACCOMMODATION**

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Employees and applicants with needs related to pregnancy, childbirth or related conditions (including lactation) may request a reasonable accommodation to enable them to perform their job. A reasonable accommodation may include, but is not limited to, the following: more frequent or longer breaks; acquisition or modification of equipment or seating; assistance with manual labor; job restructuring; light duty; private non-bathroom space for expressing breast milk; modified work schedules; temporary transfers to a less strenuous or hazardous position; or time off to attend to a pregnancy complication or recover from childbirth. The Town of Wellesley will provide a reasonable accommodation for needs related to pregnancy, childbirth or a related medical condition so long as the requested accommodation does not impose an undue hardship on the Town's programs, or business.

The Town of Wellesley will not deny employment opportunities or take adverse employment action against otherwise qualified applicants or employees who request or use such reasonable accommodations. Employees who take leave as an accommodation under this policy will be reinstated to their original job or to an equivalent position with equivalent pay, seniority, benefits and other terms and conditions of employment upon their notification to the Town of their intent to return to work or when the employee's need for a reasonable accommodation ends.

The Town may require that employees provide documentation about the need for a reasonable accommodation, or the need to extend an accommodation, from an appropriate health care or rehabilitation professional. The Town will not require such documentation when the requested accommodation is more frequent restroom, food and water breaks; seating; private non-bathroom space for expressing breast milk; or limits on lifting over twenty (20) pounds.

Employees who have questions about this policy or who wish to request leave or other reasonable accommodations under this policy should contact the Human Resources Director, Town Hall, 525 Washington Street, Wellesley, MA (617-431-1019, x2244). When an employee makes a request for a reasonable accommodation, the Town and employee will engage in a timely, good-faith and interactive process to determine an effective and reasonable accommodation.

## **MILITARY LEAVE**

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The Town of Wellesley recognizes the patriotic service rendered by many employees who belong to the military reserve units and active military duty. Employees who leave employment to enter military service, or if as a reservist are placed on active duty, may be granted a military leave of absence. This leave entitles the employee to be away from the Town for active service and to return without a break in seniority or other benefits in accordance with Massachusetts law and with the federal Uniformed Services Employment and Reemployment Rights Act (USERRA).

Employees who learn that they are required to attend reserve military training must notify their Department Head in writing, in advance of their training, of the expected duration of the training and their anticipated date of return. Employees may be entitled to a leave of absence, ordinarily, not to exceed seventeen (17) calendar days per year. It is the employee's responsibility to submit a Personnel Action Form and a copy of the military orders to the Human Resources Department.

In addition, employees hired prior to April 1 of any year who are absent for an ordered tour of military duty with any organized Reserve or National Guard unit will be paid their regular rate of weekly compensation and their certified military pay for each week of absence, as provided in the M.G. Laws Ch. 33, Section 59.

Employees called to active duty must notify their supervisor in writing before they leave for active duty of their expected dates of leave from and return to the Town of Wellesley. In accordance with state and/or federal law, an employee may be eligible for reemployment to the position that the employee held prior to entering the armed forces or being called to active duty or to a position of similar seniority, status and pay, provided that certain conditions are met. For more information about the terms and conditions of such leaves, please contact the Director of Human Resources.

## PREVIOUS LANGUAGE

Leaves of Absence may be granted as follows:

1. for extended active military service in accordance with appropriate statutes.
2. for 17 calendar days per year for Reserve or National Guard duty for training.

The Town of Wellesley recognizes the patriotic service rendered by many employees who belong to military reserve units. A leave of absence, ordinarily not to exceed seventeen (17) calendar days per year, may be obtained for this purpose. If you need military leave, discuss such plans with your Department Head well in advance in order to prepare for your absence and forward a completed Personnel Action Form and a copy of the military orders to the Human Resources Department.

In addition, an employee hired prior to April 1 in any year who is absent for an ordered tour of military training duty with any organized Reserve or National Guard unit will be paid his/her regular rate of weekly compensation and his/her certified military pay for each week of such absence, as provided in the General Laws, Chapter 33, Section 59 of the Commonwealth.

## **DISABILITY ACCOMMODATION**

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The Town of Wellesley is committed to complying fully with the Americans with Disabilities Act (ADA) and applicable state and local laws ensuring equal opportunity in employment for qualified persons with disabilities/handicaps. The Town also provides reasonable accommodation for such individuals in accordance with these laws. Qualified disabled/handicapped individuals may request reasonable accommodations through their supervisor or Human Resources. The employee may be asked to provide medical documentation of the disability/handicap and the need for an accommodation. Supervisors or Human Resources generally will interact with the employee and their medical provider to determine the necessity, effectiveness, and feasibility of the requested accommodation. The Town may decide to provide the requested accommodation or a reasonable accommodation other than requested. The Town may also determine in its sole discretion that such accommodation is not feasible or would result in undue hardship to the Town.