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James A. Smith,
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Town of Sutton
Town Manager

TO: Town of Sutton Municipal Employees
FROM: James Smith
RE: Employee policies

Please find the following policies attached for your review:

- Town of Sutton Computer, Email & Internet use
- Town of Sutton Sexual Harassment & Gender Bias
- Town of Sutton Professional Conduct
- Fraud Prevention & detection
- Conflict of Interest Law (please read information attached and then go to www.mass.gov/ethics. Click on Education and Training resources on line training – Click on Municipal Employees and follow directions to take the Ethics Test. Please print out the certificate of completion and forward back to the Town Manager's office

Town of Sutton

Computer, Email and Internet Use Policy

Computer, Electronic Mail and Internet Use Policy

The Town is continuing to improve the efficiency of information flow with electronic communication services, such as local and wide area computer networks, internet, and electronic mail (e-mail). Many town employees and board members are provided with e-mail and Internet access as a tool to improve their access to information and provide an additional means to communicate with co-workers, customers and vendors.

In order to provide these tools to its employees, the Town will continue to invest in computers, applications and servers. This equipment and applications are the property of the Town. The Town reserves the right for legitimate business purposes to monitor review and retrieve any information stored on or transmitted with Town equipment and, therefore, users should not have an expectation that their e-mail communication, or documents stored on Town equipment, will remain private.

The users of the network are responsible for respecting and adhering to local, state, federal and international laws. Any attempt to break those laws through the use of the network may result in litigation against the offender by the proper authorities and where appropriate, disciplinary action. If such an event should occur, the Town will fully comply with the authorities to provide any information necessary for the litigation process.

This policy applies to every employee, board member (elected or appointed), contractor or remote user who is provided access to the Town's computers and network resources.

User Accounts and Access

Each Town employee who needs access to the Town's computer network will be given a unique user account. Once a user receives a user ID to access the network and corresponding computer systems, the user is solely responsible for all actions taken with his or her assigned user ID.

Sharing the employee's user ID with any other person is prohibited. If an employee does share the user ID with another person, the employee will be solely responsible for the actions that person takes using the user ID. Deletion, examination, copying, or modification of files and/or data belonging to other users without their prior consent is prohibited.

Any unauthorized, deliberate action, which damages or disrupts a computing system, alters its normal performance, or causes it to malfunction, is a violation, regardless of system location or time duration.

Duplication or installation of unauthorized software is prohibited. Software that is not purchased/licensed by the Town is considered unauthorized.

Network Security As a user of the network, the employee may be allowed to access other networks (and/or the computer systems attached to those networks). The following activities are prohibited:

1. Use of systems and/or networks in attempts to gain unauthorized access to remote systems.
2. Use of systems and/or networks to connect to other systems, in evasion of the physical limitations of the local/remote system.
3. Decryption of system or user passwords.
4. The copying of system files.
5. The copying of copyrighted materials, such as third-party software, without the express written permission of the owner or the proper license.
6. Intentional attempts to "crash" network systems or programs.
7. Attempts to secure a higher level of privilege than authorized on network systems.
8. The willful introduction of computer "viruses" or other disruptive/destructive programs into the Town's network or into external networks.

Internet Use and Access

Internet access through the Town-provided network is intended for business use, including finding vendor information, government information, research, and communicating with colleagues and residents for government-related purposes. Internet usage may be monitored.

The Town allows users the privilege of Internet access for limited personal use, such as looking at home pages and sending e-mails to friends. This privilege of personal use of the Internet is subject to the terms and conditions established by the Town herein, and as they may be amended from time to time, and may be withdrawn in the future, with or without cause, in the discretion of Town management.

Any personal use of the Internet must be on the employee's own time, and must not interfere with the Town's operation or the user's work responsibilities. The internet should not be used for personal electronic commerce.

At no time may users access inappropriate web sites, such as those hosting pornography, obscene materials or gambling enterprises.

The use of any element of the Town's computer system, including Internet access, for the receipt or transmission of information disparaging to others based on race, national origin, sex, sexual orientation, age, disability, or religion is not permitted under any circumstances.

The Town reserves the right to monitor a user's history of web sites visited, and Internet access and use in order to ensure compliance with this policy.

Electronic mail (e-mail) access and use

E-mail is an effective tool for sharing and disseminating information. Since the Town's e-mail system is linked to Internet systems, users can communicate with colleagues in state agencies, vendors and residents. This electronic communication promotes better information exchange between peers and residents.

As with all of the Town's assets, the e-mail system is intended to be used for work-related purposes, and in ways consistent with the Town's overall policies. The system may not be used in any way that is disruptive to the operation of the Town or offensive to others.

Employees should take care in disseminating their email address. Email Addresses should not be given out to non-work related businesses or retail sites.

The use of e-mail for the transmission of information disparaging to others based on race, national origin, sex, sexual orientation, age, disability, or religion is not permitted under any circumstances. Users should keep in mind that material which one person finds humorous can be offensive to others.

Likewise, electronic mail is not to be used to solicit others for commercial ventures, religious or political causes or outside organizations, or personal gain (including, but not limited to, "chain letters" and/or requests for donations).

The use of broadcast mail (sending the same message to a group of employees) places stress on the e-mail system and has the potential for generating undesirable volumes of junk mail or spam. Therefore, it should be selectively used only for work-related reasons, and with appropriate supervisory approval.

Confidential information should never be transmitted or forwarded to outside entities or individuals not authorized to receive such information, or to Town employees having no business reason for to have such information.

It is emphasized that the privacy and confidentiality of e-mail transmissions cannot be assured. E-mail transmissions may be subject to disclosure through legal proceedings or otherwise through various laws which may be held to apply to such transmissions.

Expectation of Privacy

Authorized Town personnel must have unrestricted access to e-mail and related information stored on Town-owned computer equipment. This access is required for reasons that include retrieving business-related information, troubleshooting hardware and software problems, preventing unauthorized access and system misuse, deterring use that is contrary to the Town's policy, ensuring compliance with software copyright and distribution policies, and complying with legal and regulatory requests for information.

The Town reserves the right for legitimate business purposes to monitor review and retrieve any information stored on or transmitted with Town equipment and; therefore, users should not have an expectation that their e-mail communication, or documents stored on Town equipment, will remain private. For this reason, users are advised to use discretion in drafting e-mail messages; and are cautioned not to "say" things by e-mail that they would not want to be viewed by others.

Town of Sutton

Sexual Harassment & Gender Bias Policy

The following policy of the Town of Sutton is distributed on an annual basis to all employees, boards, committees, and commissions in accordance with state & federal law. This policy is part of the Town of Sutton general by-laws as voted by Town Meeting, October 20, 1997. Employees shall sign and return the attached acknowledgement form to the Town Administrator's office.

27.6.7 - Sexual Harassment & Gender Bias Policy Statement

(1) General Statement of Policy: The Town of Sutton does not discriminate on the basis of sex in employment opportunities, wages, hours, benefits, job advancement or any other terms or conditions of employment. It is the policy of the Town of Sutton that all employees shall have the same opportunities for professional development and experience regardless of gender.

(2) Policy on Sexual Harassment: Sexual harassment constitutes unlawful sex discrimination in violation of Title VII of the Civil Rights Act of 1964 and Massachusetts General Law. Sexual Harassment is defined by the Equal Employment Opportunity Commission as follows:

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

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

Sexual Harassment includes threats or insinuations, either explicitly or implicitly, that an employee's refusal to submit to sexual advances will adversely affect the employee's employment, evaluation, wages, advancement, assigned duties, shifts, or any other condition of employment. It also includes offensive sexual flirtations, advances, propositions, verbal abuse of a sexual nature, graphic verbal comments about an individual's body, sexually degrading words used to describe an individual, the display in the work place of sexually suggestive objects, pictures or drawings, and any unwelcome touching or physical contact.

The department head and employee each have an affirmative duty to maintain his or her work place free of sexual harassment and intimidation. Therefore, it is the responsibility of the department head to report to the Town Administrator any complaints received from any employee concerning sexual harassment including any observations of behavior that may be construed to be sexual harassment. Complaints concerning a department head shall be reported by the aggrieved employee directly to the Town Administrator. Complaints concerning the Town Administrator shall be reported directly to the Board of Selectmen. Complaints from the Town Administrator shall be reported to the Board of Selectmen.

Any employee who is the victim of sexual harassment in the work place, whether from supervisors or co-workers, or who observes behavior that could be construed as sexual harassment shall immediately report the matter to the department head or the Town Administrator. All investigations into any complaints will be conducted in such a way as to maintain confidentiality to the extent practical under the circumstances. All complaints will be investigated in a timely manner, and corrective action taken if warranted. Both the aggrieved and offending party shall be notified of the results of such investigation. 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 unlawful and will not be tolerated.

(3) Disciplinary Action: This policy sets forth our goals of promoting a work place that is free of sexual harassment but does not limit the Town of Sutton to discipline or take remedial action for work place conduct which is deemed unacceptable, regardless of whether that conduct satisfied the definition of sexual harassment. If it is determined that inappropriate conduct has been committed by an employee, the Town will take appropriate action. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as is deemed appropriate under the circumstances.

(4) State & Federal Remedies: In addition to those steps outlined above in this policy, if an employee believes he or she has been subjected to sexual harassment or gender bias, he or she may file a formal complaint with either or both of the government agencies set forth below. Using the Town's complaint process does not prohibit an employee from filing a complaint with these agencies. Each of these agencies has a short time period for filing a claim (EEOC-180 Days; MCAD - 6 Months). The following identifies these agencies, with all information correct at the time of adoption of this policy:

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

[b] The Massachusetts Commission Against Discrimination, One Ashburton Place, Boston, MA 02108, Telephone (617) 727-3990, or the Springfield Office at: 424 Dwight Street, Room 220, Springfield, MA 01103, Telephone (413) 739-2145.

Town of Sutton

Professional Conduct Policy

Section 27.19 - Conduct Of Employees

27.19.1 - General Policy

All employees are prohibited from engaging in any conduct which could reflect unfavorably upon the town. Employees must avoid any action which might result in or create the impression of using public office for private gain, giving preferential treatment to any person or losing complete impartiality in conducting Town business.

27.19.2 - Receipt of Gifts

(1) Items of Monetary Value. Employees are prohibited from soliciting or accepting gifts, gratuities, favors, entertainment, loans or any other item of monetary value from any person who has or is seeking to obtain business with the town or from any person within or outside town employment whose interests may be affected by the employee's performance or nonperformance of official duties.

(2) Nominal Gifts. Acceptance of nominal gifts in keeping with special occasions, such as marriage, retirement or illness; food and refreshments in the ordinary course of business meetings; or unsolicited advertising or promotional material, e.g., pens, notepads or calendars of nominal intrinsic value, is permitted.

(3) Flower Funds or Gifts For Fellow Employees. Contributions made for such funds or special gifts are not prohibited. However, participation in such activities, including contributions for even nominal gifts to supervisors, must be wholly voluntary on the part of each employee, and any gifts should be of minimal value.

(4) Supervisors. The policies described in all the above sections shall apply to all staff. In addition, supervisors must avoid placing themselves in a position which could interfere with or create the impression of interfering with the objective evaluation and direction of their subordinates other than those of nominal value for special occasions, and no supervisor shall borrow or loan money or accept favors from any subordinate.

27.19.3 - Business Activities and Solicitation

No employee shall engage in any business other than his/her regular duties during working hours, including such activities as selling to fellow employees, lending of money for profit and any similar activity.

27.19.4 - Outside Employment

(1) Interference with Town Employment. No employee may engage in additional employment which in any manner interferes with proper and effective job performance, results in a direct or gives the appearance of a conflict of interest, or may subject the town to public criticism or embarrassment.

(2) Preference of Town Employment. Employees who engage in employment outside of regular working hours may be subject to call to perform regular town duties first.

(3) Injury and Illness. The town shall in no respect be liable nor grant injury or sick leave in case of injury to an employee while engaged in outside employment nor any occupational illness attributed to the outside employment.

27.19.5 - Privileged Information

Employees often deal with plans, programs and documents of significant public interest. Employees must not use this privileged information for their own financial advantage or to provide family, friends and acquaintances with financial advantages or with information which could be used for financial advantage. If an employee finds that he/she has an outside financial interest which could be affected by town plans or activities, he/she must immediately report the

situation to his/her department head. Each employee is charged with the responsibility of ensuring that he/she releases only information that should be made available to the general public. Violation of privileged information or use for private gain is just cause for discharge of the employee. Freedom of information and privacy laws are to be observed.

27.19.6 - Use Of Town Property

- (1) General Policy. Employees should not, directly or indirectly, use or allow the use of town property of any kind for other than official activities.
- (2) Telephone Use. Personal use of town telephones should be limited to emergencies and unusual circumstances, and should be as brief as possible. Department heads shall review monthly telephone invoices and/or reports to ensure compliance.
- (3) Damaged/Missing Property. All employees are responsible for reporting any damaged or missing town property to the appropriate department head. Willful neglect, misuse, or theft of town property on the part of an employee may require the reimbursement of said item(s) by the employee to the town, and/or result in disciplinary action.

27.19.7 - Political Activity

- (1) All employees are entitled to exercise their rights as citizens to express their political opinions and to cast their votes.
- (2) Employees may not:
 - (a) Use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.
 - (b) Directly or indirectly coerce, attempt to coerce, command or advise a state or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes.
 - (c) Post political literature on town owned property, nor shall be permitted to campaign during work hours.

27.19.8 - Dress Code

Each employee is responsible for reporting for duty in attire most appropriate to the requirements of his/her position. Employees are expected to represent a professional appearance at all times, and clothing may not be of a provocative or safety hazard nature. The department head may authorize alternative dress requirements with due discretion.

27.19.9 - Dealings with Public, Vendors, & Other Staff

Employees are expected at all times to conduct all dealings with the public, vendors, and other staff members in a most professional manner. Courtesy and respect is to be observed at all times.

Fraud Prevention and Detection Policy

PURPOSE:

The Town of Sutton Fraud Prevention and Detection Policy (Policy) is established to facilitate the development of controls, which will aid in the prevention and detection of fraud against the Town of Sutton (Town). It is the intent of the Town to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and conduct of investigations.

Furthermore, the purpose of this document is to confirm that the Town supports and fosters a culture of zero tolerance towards fraud in all of its forms.

APPLICABILITY:

This Policy applies to the Board of Selectmen, the School Committee and all other elected town officials; their appointees; all employees of the Town of Sutton, including all enterprise operations and all members of its boards, committees or commissions.

This Policy also applies to any other persons "acting on behalf of the Town", vendors and contractors, consultants, volunteers, temporary, seasonal and casual employees and grant sub recipients.

SCOPE:

This Policy applies to any suspected fraud, abuse or similar irregularity against the Town.

OBJECTIVE:

This Policy is meant to communicate the Town's intentions regarding prevention, reporting and investigating suspected fraud, abuse and similar irregularities. The Town desires to create an environment in which employees and/or citizens feel comfortable enough to report any suspicions of fraud.

Further, this Policy is meant to communicate the Town's desire to protect the assets, resources and reputation of the Town of Sutton. It is through this policy that the Town also seeks to protect all officials, employees and associated parties from false or erroneous allegations by providing them with sufficient knowledge and training relative to the Town's fraud prevention policies and procedures to ensure that they fully understand the culture of the environment they are operating within.

This policy provides management with specific guidelines and responsibilities regarding appropriate actions in conducting investigations of alleged fraud and similar improprieties.

DEFINITIONS:

Abuse refers to, but is not limited to:

- Improper or misuse of authority
- Improper or misuse of Town property, equipment, materials, records or other resources
- Waste of public funds, or
- Any similar or related irregularity

Abuse can occur in financial or non financial settings. When considering if an event or action might be construed as being abusive, one should consider if it would pass public scrutiny.

Any other persons "acting on behalf of the Town" shall mean all persons responsible for or to the municipal government and/or the Town's enterprises placed in that position by some official relationship with the Town of Sutton.

Appointed officials shall mean all persons responsible for or to the municipal government and/or the Town's enterprises placed in that position via an appointment.

Consultants shall mean all individuals and organizations conducting business with or on behalf of the municipal government and/or the enterprises of the Town.

Elected officials shall mean all persons responsible for or to the municipal government and/or the Town's enterprises placed in that position by the voters of Sutton via the local election process.

Fraud or other irregularity refers to, but is not limited to:

- Any dishonest or fraudulent act
- Forgery or alteration of any document or account
- Forgery or alteration of a check, bank draft or any other financial document
- Misappropriation of funds, securities, supplies or other assets
- Impropriety in the handling or reporting of money or financial transactions
- Profiting as a result of insider knowledge of Town activities
- Disclosing confidential and/or proprietary information to outside parties
- Accepting or seeking anything of material value from consultants, contractors, vendors or persons providing services or materials to the Town
- Destruction, removal or inappropriate use of records, furniture, fixtures and equipment
- Any claim for reimbursement of expenses that are not made for the exclusive benefit of the Town
- Any computer related activity involving the alteration, destruction, unauthorized access to, forgery or manipulation of data for fraudulent purposes, or
- Any similar or related irregularity

Adopted by the Sutton Board of Selectmen: October 18, 2011

Grant sub recipients shall mean all individuals and/or organizations that receive any programmatic funding or "in kind assistance" from the municipal government and/or the Town's enterprises.

Management shall mean those individuals who have been placed in a position of trust by a lawful Town of Sutton appointing authority to assist in carrying out the objectives of the department of the Town in which they are employed.

Town Administrator shall mean the highest ranking individual responsible for the municipal government and the Town's enterprises.

Town employee shall mean all employees of the municipal government and all of the enterprises of the Town. This definition is inclusive of all employees regardless of full time, part time, temporary, seasonal or casual designations.

Town of Sutton is a Massachusetts municipal corporation managed pursuant to the Town of Sutton Charter and the Town of Sutton Code of Bylaws and shall include all its enterprise activities, as well as all boards, committees and commissions elected or appointed by the Board of Selectmen and other appointing authorities.

Vendors and contractors shall mean all individuals and organizations conducting business with or on behalf of the municipal government and/or the enterprises of the Town.

Volunteers shall mean all contributors of unpaid personal services to the municipal government and/or the enterprises of the Town.

POLICY:

It is the policy of the Town to investigate and report to appropriate governmental authorities, as required, any violations of compliance with Town policy, state and federal laws and regulations, internal accounting controls and questionable accounting matters.

Responsibilities

The Town of Sutton's management is responsible for establishing and maintaining policies and controls that provide security and accountability for the resources entrusted to them. Internal controls are intended to aid in preventing and detecting instances of fraud and related misconduct. Management is also expected to recognize risks and exposures inherent in their area of responsibility and be aware of indications of fraud or related misconduct. Responses to such allegations or indicators should be consistent.

Every employee has the responsibility to assist the Town in complying with policies, legal and regulatory requirements and in reporting known violations. It is the policy of the Town to encourage the support and cooperation of all employees in meeting the Town's commitment and responsibility to such compliance.

Reporting

Employees shall report suspected instances of fraud or irregularity to their immediate supervisor or their department head. However, in certain circumstances, it may be appropriate for employees to report suspected instances of fraud or irregularity directly to the Town Administrator (if the alleged fraud has been committed by the employee's supervisor or department head).

It is the responsibility of a supervisor or department head to ensure that the suspicion of fraud and/or irregularity that is reported to them is reported as soon as practical to the Town Administrator. The written or oral report shall be sufficiently detailed and inclusive to ensure a clear understanding of the issues raised. In the event that the Town Administrator is the subject of, or otherwise identified as involved in the acts underlying such report, the person making the report may notify and forward such report to the Chief of Police who will then lead the investigation and shall immediately report such allegations to the Chairman of the Board of Selectmen.

Town employees are prohibited from initiating investigations on their own. However, anyone may report suspected violations or concerns in writing to the Town Administrator and shall indicate that he/she is an employee of the Town. The report shall be sufficiently detailed and inclusive to ensure a clear understanding of the issues raised. The report shall be submitted to the Town Administrator in a sealed envelope marked "Confidential and Private". It is the policy of the Town that anyone who reports a violation may submit such report confidentially and offsite.

There shall be no retaliation by any Town employee against an employee who makes a report pursuant to this policy even if, after investigation, the Town Administrator determines that there has not been a violation of any applicable Town policy, state or federal laws and regulations or internal accounting controls. However, employees who make reports or provide evidence which they know to be false or, without a reasonable belief in the truth and accuracy of such information, may be subject to disciplinary action.

Anonymous Allegations

The Town encourages individuals to sign their names to allegations. Concerns expressed anonymously are difficult to investigate; nevertheless, anonymous allegations will be followed up on at the discretion of management. This discretion will be applied after consideration of the following:

- Seriousness of the issue raised
- Credibility of the concern
- Likelihood of confirming the allegation

False Allegations

Employees or other parties must understand the implications (resources and costs) of undertaking investigations, and shall therefore guard against making allegations which are false and made with malicious intent. Evidence of malicious intent will result in disciplinary action, up to and including termination.

Training, Education and Awareness

In order for this Policy to be sustainable, it must be supported by a structured education, communication and awareness program.

It is the responsibility of management to ensure that all employees and other parties are made aware of and receive appropriate training and education with regard to this Policy in addition to any related policies and procedures of the Town.

A copy of this Policy shall be distributed to all existing and new employees. The signed acknowledgement form shall be maintained in the employee's personnel file located in the Town Administrator's office.

Investigation

It is the Town Administrator's intent to fully investigate any suspected acts of fraud, abuse or similar irregularity. An objective and impartial investigation will be conducted regardless of the position, title, length of service or relationship with the Town of any party involved in such an investigation. In conducting investigations, the Town Administrator will consult with and receive guidance from the Town Attorney, the Chief of Police and any other source they deem appropriate.

Media Issues

Any employee contacted by the media with respect to an audit investigation is required to refer the media to the Town Administrator. The alleged fraud or audit investigation shall not be discussed with the media by any person other than those trained to do so. The Town Administrator and the Town Accountant will consult with the management of the department involved and assist them in responding to any media requests for information or interview.

Reporting to External Auditors

The Town Accountant shall fully disclose to the external auditors of the Town all information relating to fraud investigations.

Whistleblower Protection

Adopted by the Sutton Board of Selectmen: October 18, 2011

In addition to whistleblower protections provided by federal and state laws, this Policy provides that retaliation against employees is prohibited.

A. Except as provided in Subsection B of this section, no appointing authority or supervisor shall initiate or administer any disciplinary action, deny a promotional opportunity, write an adverse job performance evaluation or in any way adversely affect an employee on account of the employee's disclosure of information. This section shall not apply to:

1. An employee who discloses information that the employee knows to be false, or who discloses information with disregard for the truth or falsity of the information.
2. An employee who discloses information from public records that are closed to public inspection pursuant to the Massachusetts Public Records Law.
3. An employee who discloses information that is confidential under any other provision of law.

B. It shall be the obligation of an employee who discloses information under this section to make a good faith effort to provide to their department head, appointing authority or the Town Administrator, the information to be disclosed prior to its public disclosure.

Security and Confidentiality

All work products of the Town Administrator's investigations, including but not limited to work papers, notes, interviews and other information relating to investigations will not be shared, discussed or provided to anyone without an absolute need to know or pursuant to a court order. The Town Administrator shall provide a secure environment for the storage of all work in progress regarding investigations, subject to applicable law.

Summary of the Conflict of Interest Law for Municipal Employees

This summary of the conflict of interest law, General Laws chapter 268A, is intended to help municipal employees understand how that law applies to them. This summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation. Municipal employees can obtain free confidential advice about the conflict of interest law from the Commission's Legal Division at our website, phone number, and address above. Municipal counsel may also provide advice.

The conflict of interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service, as described below. The sections referenced below are sections of G.L. c. 268A.

When the Commission determines that the conflict of interest law has been violated, it can impose a civil penalty of up to \$10,000 (\$25,000 for bribery cases) for each violation. In addition, the Commission can order the violator to repay any economic advantage he gained by the violation, and to make restitution to injured third parties. Violations of the conflict of interest law can also be prosecuted criminally.

I. Are you a municipal employee for conflict of interest law purposes?

You do not have to be a full-time, paid municipal employee to be considered a municipal employee for conflict of interest purposes. Anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full- and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law. An employee of a private firm can also be a municipal employee, if the private firm has a contract with the city or town and the employee is a "key employee" under the contract, meaning the town has specifically contracted for her services. The law also covers private parties who engage in impermissible dealings with municipal employees, such as offering bribes or illegal gifts.

II. On-the-job restrictions.

(a) Bribes. Asking for and taking bribes is prohibited. (See Section 2)

A bribe is anything of value corruptly received by a municipal employee in exchange for the employee being influenced in his official actions. Giving, offering, receiving, or asking for a bribe is illegal.

Bribes are more serious than illegal gifts because they involve corrupt intent. In other words, the municipal employee intends to sell his office by agreeing to do or not do some official act, and the giver intends to influence him to do so. Bribes of any value are illegal.

(b) Gifts and gratuities. Asking for or accepting a gift because of your official position, or because of something you can do or have done in your official position, is prohibited. (See Sections 3, 23(b)(2), and 26)

Municipal employees may not accept gifts and gratuities valued at \$50 or more given to influence their official actions or because of their official position. Accepting a gift intended to reward past official action or to bring about future official action is illegal, as is giving such gifts. Accepting a gift given to you because of the municipal position you hold is also illegal. Meals, entertainment event tickets, golf, gift baskets, and payment of travel expenses can all be illegal gifts if given in connection with official action or position, as can anything worth \$50 or more. A number of smaller gifts together worth \$50 or more may also violate these sections.

Example of violation: A town administrator accepts reduced rental payments from developers.

Example of violation: A developer offers a ski trip to a school district employee who oversees the developer's work for the school district.

Regulatory exemptions. There are situations in which a municipal employee's receipt of a gift does not present a genuine risk of a conflict of interest, and may in fact advance the public interest. The Commission has created exemptions permitting giving and

receiving gifts in these situations. One commonly used exemption permits municipal employees to accept payment of travel-related expenses when doing so advances a public purpose. Another commonly used exemption permits municipal employees to accept payment of costs involved in attendance at educational and training programs. Other exemptions are listed on the Commission's website.

Example where there is no violation: A fire truck manufacturer offers to pay the travel expenses of a fire chief to a trade show where the chief can examine various kinds of fire-fighting equipment that the town may purchase. The chief fills out a disclosure form and obtains prior approval from his appointing authority.

Example where there is no violation: A town treasurer attends a two-day annual school featuring multiple substantive seminars on issues relevant to treasurers. The annual school is paid for in part by banks that do business with town treasurers. The treasurer is only required to make a disclosure if one of the sponsoring banks has official business before her in the six months before or after the annual school.

(c) Misuse of position. Using your official position to get something you are not entitled to, or to get someone else something they are not entitled to, is prohibited. Causing someone else to do these things is also prohibited. (See Sections 23(b)(2) and 26)

A municipal employee may not use her official position to get something worth \$50 or more that would not be properly available to other similarly situated individuals. Similarly, a municipal employee may not use her official position to get something worth \$50 or more for someone else that would not be properly available to other similarly situated individuals. Causing someone else to do these things is also prohibited.

Example of violation: A full-time town employee writes a novel on work time, using her office computer, and directing her secretary to proofread the draft.

Example of violation: A city councilor directs subordinates to drive the councilor's wife to and from the grocery store.

Example of violation: A mayor avoids a speeding ticket by asking the police officer who stops him, "Do you know who I am?" and showing his municipal I.D.

(d) Self-dealing and nepotism. Participating as a municipal employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited. (See Section 19)

A municipal employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest. He also may not participate in any particular matter in which a prospective employer, or a business organization of which he is a director, officer, trustee, or employee has a financial interest. Participation includes discussing as well as voting on a matter, and delegating a matter to someone else.

A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out. If you, your immediate family, your business, or your employer have or has a financial interest in a matter, you may not participate. The financial interest must be direct and immediate or reasonably foreseeable to create a conflict. Financial interests which are remote, speculative or not sufficiently identifiable do not create conflicts.

Example of violation: A school committee member's wife is a teacher in the town's public schools. The school committee member votes on the budget line item for teachers' salaries.

Example of violation: A member of a town affordable housing committee is also the director of a non-profit housing development corporation. The non-profit makes an application to the committee, and the member/director participates in the discussion.

Example: A planning board member lives next door to property where a developer plans to construct a new building. Because the planning board member owns abutting property, he is presumed to have a financial interest in the matter. He cannot participate unless he provides the State Ethics Commission with an opinion from a qualified independent appraiser that the new construction will not affect his financial interest.

In many cases, where not otherwise required to participate, a municipal employee may comply with the law by simply not participating in the particular matter in which she has a financial interest. She need not give a reason for not participating.

There are several exemptions to this section of the law. An appointed municipal employee may file a written disclosure about the financial interest with his appointing authority, and seek permission to participate notwithstanding the conflict. The appointing authority may grant written permission if she determines that the financial interest in question is not so substantial that it is likely to affect the integrity of his services to the municipality. Participating without disclosing the financial interest is a violation. Elected employees cannot use the disclosure procedure because they have no appointing authority.

Example where there is no violation: An appointed member of the town zoning advisory committee, which will review and recommend changes to the town's by-laws with regard to a commercial district, is a partner at a company that owns commercial property in the district. Prior to participating in any committee discussions, the member files a disclosure with the zoning board of appeals that appointed him to his position, and that board gives him a written determination authorizing his participation, despite his company's financial interest. There is no violation.

There is also an exemption for both appointed and elected employees where the employee's task is to address a matter of general policy and the employee's financial interest is shared with a substantial portion (generally 10% or more) of the town's population, such as, for instance, a financial interest in real estate tax rates or municipal utility rates.

Regulatory exemptions. In addition to the statutory exemptions just mentioned, the Commission has created several regulatory exemptions permitting municipal employees to participate in particular matters notwithstanding the presence of a financial interest in certain very specific situations when permitting them to do so advances a public purpose. There is an exemption permitting school committee members to participate in setting school fees that will affect their own children if they make a prior written disclosure. There is an exemption permitting town clerks to perform election-related functions even when they, or their immediate family members, are on the ballot, because clerks' election-related functions are extensively regulated by other laws. There is also an exemption permitting a person serving as a member of a municipal board pursuant to a legal requirement that the board have members with a specified affiliation to participate fully in determinations of general policy by the board, even if the entity with which he is affiliated has a financial interest in the matter. Other exemptions are listed in the Commission's regulations, available on the Commission's website.

Example where there is no violation: A municipal Shellfish Advisory Board has been created to provide advice to the Board of Selectmen on policy issues related to shellfishing. The Advisory Board is required to have members who are currently commercial fishermen. A board member who is a commercial fisherman may participate in determinations of general policy in which he has a financial interest common to all commercial fishermen, but may not participate in determinations in which he alone has a financial interest, such as the extension of his own individual permits or leases.

(e) False claims. Presenting a false claim to your employer for a payment or benefit is prohibited, and causing someone else to do so is also prohibited. (See Sections 23(b)(4) and 26)

A municipal employee may not present a false or fraudulent claim to his employer for any payment or benefit worth \$50 or more, or cause another person to do so.

Example of violation: A public works director directs his secretary to fill out time sheets to show him as present at work on days when he was skiing.

(f) Appearance of conflict. Acting in a manner that would make a reasonable person think you can be improperly influenced is prohibited. (See Section 23(b)(3))

A municipal employee may not act in a manner that would cause a reasonable person to think that she would show favor toward someone or that she can be improperly influenced. Section 23(b)(3) requires a municipal employee to consider whether her relationships and affiliations could prevent her from acting fairly and objectively when she performs her duties for a city or town. If she cannot be fair and objective because of a relationship or affiliation, she should not perform her duties. However, a municipal employee, whether elected or appointed, can avoid violating this provision by making a public disclosure of the facts. An appointed employee must make the disclosure in writing to his appointing official.

Example where there is no violation: A developer who is the cousin of the chair of the conservation commission has filed an application with the commission. A reasonable person could conclude that the chair might favor her cousin. The chair files a written disclosure with her appointing authority explaining her relationship with her cousin prior

to the meeting at which the application will be considered. There is no violation of Sec. 23(b)(3).

(g) Confidential information. Improperly disclosing or personally using confidential information obtained through your job is prohibited. (See Section 23(c))

Municipal employees may not improperly disclose confidential information, or make personal use of non-public information they acquired in the course of their official duties to further their personal interests.

III. After-hours restrictions.

(a) Taking a second paid job that conflicts with the duties of your municipal job is prohibited. (See Section 23(b)(1))

A municipal employee may not accept other paid employment if the responsibilities of the second job are incompatible with his or her municipal job.

Example: A police officer may not work as a paid private security guard in the town where he serves because the demands of his private employment would conflict with his duties as a police officer.

(b) Divided loyalties. Receiving pay from anyone other than the city or town to work on a matter involving the city or town is prohibited. Acting as agent or attorney for anyone other than the city or town in a matter involving the city or town is also prohibited whether or not you are paid. (See Sec. 17)

Because cities and towns are entitled to the undivided loyalty of their employees, a municipal employee may not be paid by other people and organizations in relation to a matter if the city or town has an interest in the matter. In addition, a municipal employee may not act on behalf of other people and organizations or act as an attorney for other people and organizations in which the town has an interest. Acting as agent includes contacting the municipality in person, by phone, or in writing; acting as a liaison; providing documents to the city or town; and serving as spokesman.

A municipal employee may always represent his own personal interests, even before his own municipal agency or board, on the same terms and conditions that other similarly situated members of the public would be allowed to do so. A municipal employee may also apply for building and related permits on behalf of someone else and be paid for doing so, unless he works for the permitting agency, or an agency which regulates the permitting agency.

Example of violation: A full-time health agent submits a septic system plan that she has prepared for a private client to the town's board of health.

Example of violation: A planning board member represents a private client before the board of selectmen on a request that town meeting consider rezoning the client's property.

While many municipal employees earn their livelihood in municipal jobs, some municipal employees volunteer their time to provide services to the town or receive small stipends. Others, such as a private attorney who provides legal services to a town as needed, may serve in a position in which they may have other personal or private employment during normal working hours. In recognition of the need not to unduly restrict the ability of town volunteers and part-time employees to earn a living, the law is less restrictive for "special" municipal employees than for other municipal employees.

The status of "special" municipal employee has to be assigned to a municipal position by vote of the board of selectmen, city council, or similar body. A position is eligible to be designated as "special" if it is unpaid, or if it is part-time and the employee is allowed to have another job during normal working hours, or if the employee was not paid for working more than 800 hours during the preceding 365 days. It is the position that is designated as "special" and not the person or persons holding the position. Selectmen in towns of 10,000 or fewer are automatically "special"; selectman in larger towns cannot be "specials."

If a municipal position has been designated as "special," an employee holding that position may be paid by others, act on behalf of others, and act as attorney for others with respect to matters before municipal boards other than his own, provided that he has not officially participated in the matter, and the matter is not now, and has not within the past year been, under his official responsibility.

Example: A school committee member who has been designated as a special municipal employee appears before the board of health on behalf of a client of his private law practice, on a matter that he has not participated in or had responsibility for as a school committee member. There is no conflict. However, he may not appear before the school committee, or the school department, on behalf of a client because he has official responsibility for any matter that comes before the school committee. This is still the case even if he has recused himself from participating in the matter in his official capacity.

Example: A member who sits as an alternate on the conservation commission is a special municipal employee. Under town by-laws, he only has official responsibility for matters assigned to him. He may represent a resident who wants to file an application with the conservation commission as long as the matter is not assigned to him and he will not participate in it.

(c) Inside track. Being paid by your city or town, directly or indirectly, under some second arrangement in addition to your job is prohibited, unless an exemption applies. (See Section 20)

A municipal employee generally may not have a financial interest in a municipal contract, including a second municipal job. A municipal employee is also generally prohibited from having an indirect financial interest in a contract that the city or town has with someone else. This provision is intended to prevent municipal employees from having an "inside track" to further financial opportunities.

Example of violation: Legal counsel to the town housing authority becomes the acting executive director of the authority, and is paid in both positions.

Example of violation: A selectman buys a surplus truck from the town DPW.

Example of violation: A full-time secretary for the board of health wants to have a second paid job working part-time for the town library. She will violate Section 20 unless she can meet the requirements of an exemption.

Example of violation: A city councilor wants to work for a non-profit that receives funding under a contract with her city. Unless she can satisfy the requirements of an exemption under Section 20, she cannot take the job.

There are numerous exemptions. A municipal employee may hold multiple unpaid or elected positions. Some exemptions apply only to special municipal employees. Specific exemptions may cover serving as an unpaid volunteer in a second town position, housing-related benefits, public safety positions, certain elected positions, small towns, and other specific situations. Please call the Ethics Commission's Legal Division for advice about a specific situation.

IV. After you leave municipal employment. (See Section 18).

(a) Forever ban. After you leave your municipal job, you may never work for anyone other than the municipality on a matter that you worked on as a municipal employee.

If you participated in a matter as a municipal employee, you cannot ever be paid to work on that same matter for anyone other than the municipality, nor may you act for someone else, whether paid or not. The purpose of this restriction is to bar former employees from selling to private interests their familiarity with the facts of particular matters that are of continuing concern to their former municipal employer. The restriction does not prohibit former municipal employees from using the expertise acquired in government service in their subsequent private activities.

Example of violation: A former school department employee works for a contractor under a contract that she helped to draft and oversee for the school department.

(b) One year cooling-off period. For one year after you leave your municipal job you may not participate in any matter over which you had official responsibility during your last two years of public service.

Former municipal employees are barred for one year after they leave municipal employment from personally appearing before any agency of the municipality in connection with matters that were under their authority in their prior municipal positions during the two years before they left.

Example: An assistant town manager negotiates a three-year contract with a company. The town manager who supervised the assistant, and had official responsibility for the contract but did not participate in negotiating it, leaves her job to work for the

company to which the contract was awarded. The former manager may not call or write the town in connection with the company's work on the contract for one year after leaving the town.

A former municipal employee who participated as such in general legislation on expanded gaming and related matters may not become an officer or employee of, or acquire a financial interest in, an applicant for a gaming license, or a gaming licensee, for one year after his public employment ceases.

(c) Partners. Your partners will be subject to restrictions while you serve as a municipal employee and after your municipal service ends.

Partners of municipal employees and former municipal employees are also subject to restrictions under the conflict of interest law. If a municipal employee participated in a matter, or if he has official responsibility for a matter, then his partner may not act on behalf of anyone other than the municipality or provide services as an attorney to anyone but the city or town in relation to the matter.

Example: While serving on a city's historic district commission, an architect reviewed an application to get landmark status for a building. His partners at his architecture firm may not prepare and sign plans for the owner of the building or otherwise act on the owner's behalf in relation to the application for landmark status. In addition, because the architect has official responsibility as a commissioner for every matter that comes before the commission, his partners may not communicate with the commission or otherwise act on behalf of any client on any matter that comes before the commission during the time that the architect serves on the commission.

Example: A former town counsel joins a law firm as a partner. Because she litigated a lawsuit for the town, her new partners cannot represent any private clients in the lawsuit for one year after her job with the town ended.

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This summary is not intended to be legal advice and, because it is a summary, it does not mention every provision of the conflict law that may apply in a particular situation. Our website, <http://www.mass.gov/ethics>, contains further information about how the law applies in many situations. You can also contact the Commission's Legal Division via

our website, by telephone, or by letter. Our contact information is at the top of this document.

Version 6: Revised May 10, 2013

ACKNOWLEDGMENT OF RECEIPT

I, _____, an employee at _____,
(first and last name) (name of municipal dept.)

hereby acknowledge that I received a copy of the summary of the conflict of interest law
for municipal employees, revised May 10, 2013, on _____.
(date)

Municipal employees should complete the acknowledgment of receipt and return it to the individual who provided them with a copy of the summary. Alternatively, municipal employees may send an e-mail acknowledging receipt of the summary to the individual who provided them with a copy of it.

David Hall, Chairman
John L. Hebert, Vice Chairman
Paul Maynard, Clerk
Jesse Limanek
Michael Kenney

James A. Smith, Town Administrator



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4 Uxbridge Road
Sutton, Massachusetts 01590
(508) 865-8727
Fax: (508) 865-8721

Town Of Sutton

With my signatures below I acknowledge that I have received, read and fully understand the following policies:

The Town of Sutton Computer, Email & Internet use Policy:

Signature _____

The Town of Sutton Sexual Harassment & Gender Bias Policy:

Signature _____

The Town of Sutton Professional Conduct Policy:

Signature: _____

The Town of Sutton Fraud Prevention & Detection Policy:

Signature: _____

Please print name on the line below and return back to your department head

Print Name: _____ Date: _____