

Critiques and considerations regarding the Cape Elizabeth Personnel Code

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Statement of Personnel Policy

procedures and equipment to maintain the efficiency of departments and their employees, to determine the manning of jobs, create, revise and eliminate jobs,

I would recommend changing the sexist term *manning* with “the 'staffing' of jobs...”

Note: In any instance where any provision of this personnel code is in conflict with any collective bargaining agreement that may exist, the collective bargaining agreement shall take precedence for employees covered under the agreement.

What are the implications of the Note on that page?

Article 1: General Provisions

Perhaps: add 'ethnicity', 'economic class', and 'gender'.

Regarding 'political affiliation' what if someone is a member of the Nazi Party or their online activity indicates affiliation with a fascist party?

Structural racism: "first preference being given always to citizens of Cape Elizabeth, all other factors being equal."

How many members of one family are allowed to serve on the Town Council?

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...with special sources of information in each case. It shall be the duty of the Town Manager, or other responsible person or body, to seek out the most desirable employees for the Town.

How, exactly, is the Town to widen its pool of applicants? By what means? Through what channels, networks, or organizations?

(b) Police Department Entry Level Vacancies

Vacancies for regular patrol officers and dispatchers within the Police Department shall be filled by the Chief of Police after a process with which scheduled appearances by not less than three

(3) candidates receiving the highest scores before an oral interview board of not less than three members who shall be selected as required by the Chief of Police with the approval of the Town Manager.

...the results of the written examination and an evaluation of experience and training...

Does enduring systemic white or male supremacy factor into useful experience? Conversely, does having no experience engaging with people of color constitute a *lack of experience*?

(d) Psychiatric and Polygraph Examination

Is the psychiatrist required to be aware of the history of racism and sexism in the field of psychiatry?

(e) Application Forms

The application process will be public to the extent required by the Maine Freedom of Information Act.

Currently: The Maine Freedom of Access Act (FOAA). Source: <https://www.maine.gov/foaa/>

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(f) Residency Requirements

The Town's housing policies and general practices preclude poorer people from being hireable.

To the extent race and class position are entwined, is this, in effect, a limit on diversity in employment?

(g) Other requirements

All candidates for regular positions must be of high moral character, high school graduates or equivalent and at least 18 years of age. In evaluating moral character, the Town shall consider sufficient evidence of criminal, infamous, and/or dishonest conduct. Any applicant who has been convicted of a felony or who has been convicted of a misdemeanor involving moral turpitude may not be considered for employment.

I find this passage to be racist, anti-queer, and misogynistic in a few ways. If one comes from a city with stop-and-frisk laws, one may have a criminal record simply due to being Black or Brown while walking. Likewise if one was arrested for being sex trafficked.

'*High moral character*' is historically organized around an endemic sexist, anti-queer, and racist standard. Should the language be struck?

'infamous conduct'

This is historically standard coded lingo for engaging in 'homosexual behavior'. I'd argue the language in the Personnel Code is homophobic and discriminatory.

'dishonest conduct'

What does that refer to?

'*Moral turpitude*' is defined as "an act or behavior that gravely violates the sentiment or accepted standard of the community."

This would mean, in many Maine towns, that any behavior that is not anti-LGBTQ+, that is not white or male supremacist, would be in grave violation. The standard needs to be legal or otherwise, not based on the community's values.

Hypothetically, would speaking out forcefully and publicly against denied or unacknowledged white supremacy in a town be an act of moral turpitude or a violation of acceptable standards? Does having a history of being a trafficked child, or person trapped in a system of prostitution, or a sex worker, mean one is without moral turpitude and unhireable?

What if 'must be of high moral character' and 'moral turpitude' means, instead, one cannot have demonstrated any white supremacist, male supremacist, anti-LGBTQ+, fascist behaviors or demonstrated any affiliations with or support for fascist governments (local, state, federal) or white male supremacist political leaders?

(h) Immigration Law Compliance

Given the issues around immigration over the last many years, does the Town posting a notice on our cable access channel letting the townspeople, some of whom are from other countries, know they may be rounded up by ICE constitute a racist act? What are the consequences if this were to occur?

This form must be completed within 3 days of your start date. Failure to comply with this requirement will result in termination of employment.

Grammatical note: this passage is directed at the reader directly but this is not done elsewhere.

Section 3-1-2:

Promotion

Does the Town keep records on the gender, race, ethnicity of those promoted? Is there a way to know if white women or persons of color are systematically not promoted into high ranking positions in Town?

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Section 3-1-4:

Training

The Town strongly encourages participation in programs and courses, which enhance an employee's ability to provide effective service to the community.

Each year, at the time of the annual employee evaluation, supervisors and employees shall prepare a training program for each employee. Training may include specific technical skills, personal development programs and/or course work leading to a degree or a professional designation.

Should this be added: *social development*?

Is there mandated training for identifying and reporting racist, sexist, anti-queer and other discrimination? If there is 'bias training' is it a requirement that such training be demonstrated elsewhere be useful in producing a reduction in discrimination? By what measure are such trainings chosen?

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Probationary Period

The appointing department head may at any time during such period reject for any reason any person appointed to a position.

"For any reason"? Ought there be a caveat about non-discrimination?

Page 3-7

3-1-10:

Disciplinary Proceedings

What do these terms mean on the ground: *insubordination, disloyalty or other cause*?

What constitutes insubordination or disloyalty? What does 'other cause' refer to?

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Proper Dress

Department heads may determine appropriate workplace attire and grooming for their area.

Managers should communicate their department's workplace attire and grooming guidelines to employees during the orientation and evaluation period. Any questions about the department's guidelines for attire should be discussed with the department head.

Employees are expected to present a professional, businesslike image to residents, taxpayers, visitors, and the public. Acceptable personal appearance, like proper maintenance of work areas, is an ongoing requirement of employment with the Town.

This makes me think of many publicized issues involving presentation of hair, re: race and ethnicity.

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Section 3-2-1

Holidays

There is no such thing as Presidents' Day. There is only Washington's Birthday.

Source:

<https://www.whitehouse.gov/articles/great-debate-presidents-day-washingtons-birthday/>

"Columbus Day" has thankfully been replaced in Maine by **Indigenous Peoples' Day**

What about major holidays for other faiths?

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Family and Medical Leave

If a husband and wife are both employed by the Town, and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the husband and wife together may only take a total of 12 weeks of leave.

I recommend changing any heterosexist language such as 'husband and wife' and replacing it with 'spouse/both spouses' or 'primary partner/both partners', and/or, 'either husband' or 'either wife'.

Why not a parent "in-law"? Ought it say "next of kin" also?

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Middle of page

An employee whose son, daughter, parent or next of kin

Throughout the document, I recommend replacing son and daughter with child/children. Due

to trans kids and kids who are not either.

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Regarding medical issues. What if someone is part-time and can't afford the medical costs necessary to take a leave of absence?

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Elections are binding for the plan year unless during the year the employee has a lifestyle change

such as:

- 1. Marriage or divorce*

What are the implications for people who are life partners but not legally married, or only married through religious ceremony but not civically?

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Section 3-3-1

*Discrimination and harassment policy
age, sex, sexual orientation,*

What about gender, ethnicity?

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top:

employee who believes that he or she has been harassed or discriminated against

Ought we transition to the singular 'they/them/their'?

DEFINITION OF SEXUAL HARASSMENT

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

How is 'unwelcome' determined? Is it solely on the person harassed to identify? What if past or present trauma leaves them unable to address the harasser at all? Does the organization recognize PTSD as a disability?

DESCRIPTION OF SEXUAL HARASSMENT

The following type of conduct is considered to be sexual harassment and is not permitted:

A. Physical assaults of a sexual nature such as:

- (1) rape, sexual battery, molestation or attempts to commit these assaults; and*
- (2) intentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body, or poking another employee's body.*

Sexual or sexual in nature for whom?

Ought this be spelled out for racial harassment as well?

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A picture will be presumed to be sexually suggestive if it depicts a person of either sex who is not fully clothed or in clothes that are not suited to or ordinarily accepted for the accomplishment of routine work in and around the workplace and who is posed for the obvious purpose of displaying or drawing attention to private portions of his or her body.

Consider either 'a person of any sex' or 'a person who is not...' and private portions of 'their bodies' or, if singular, 'their body'.

INTERNAL COMPLAINT PROCEDURE

Any employee who believes he or she has been the subject of discriminatory harassment should report the incident or act immediately to his/her supervisor or to the Town Manager.

This can be changed either to the singular they or by pluralizing the subjects.

"Any employees who believe they have been the subject of... should report the incident or act immediately to their supervisor..."

Is PTSD or CPTSD, such as from enduring racism, a recognized disability?

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C. Prohibited Use

The employee is responsible for his/her actions and activities...

Consider "Employees are responsible for their actions and activities..." or the singular they/their.

Page 3-22

Sec. 3-3-4 Substance Abuse Policy

Misusing or abusing controlled substances on the job is prohibited, as is selling, manufacturing, distributing, possessing, using, or being under the influence of alcohol or illegal substances on the job.

What about 'using' controlled substances?

Submitted 11/12/2020 by Paul Seidman