

HRC Board Retreat Packet of Materials (as of 09-23-2022)

Below you will find supporting documents for the HRC Retreat. Roman numeral I contains a link to the current bylaw and links to other relevant plans and policies. Please review the Bylaw and definition for consistency with other Town documents. Roman numeral II provides links to HRC around the commonwealth. Please review so we can determine what procedures and other activities the HRC might want to engage in. Roman numeral III, contains the procedures used by the Town of Arlington and in green the proposed procedures for Amherst. Finally Roman Numeral IV is a list of questions that the HRC will need to answer.

I. HUMAN RIGHTS & HUMAN RIGHTS COMMISSION [Bylaws 3:3](#)

[Proposal: expand the definitions to match AA/ EEO and DEI statement](#)

[AA PLAN](#)

[EEO Policy](#) see page 12

[DEI statement](#)

A. Definitions

“Gender Identity” means all forms of gender identity, including a person’s actual, self-identified, or perceived gender, as well as a person’s, gender-related self-image, gender related appearance, or gender-related expression whether or not that gender-related self-image, gender-related appearance, or gender-related expression is different from that traditionally associated with a person’s sex at birth.

“Genetic Information” means any written or recorded individually identifiable result of a genetic test as defined by this section or explanation of a result or family history pertaining to the presence, absence, variation, alteration, or modification of a human gene or genes. The term Genetic Information shall not include information pertaining to the abuse of drugs or alcohol, which is derived from tests given for the exclusive purpose of determining the abuse of drugs or alcohol.

B. No person shall be denied any rights guaranteed pursuant to local, Commonwealth, or federal law on the basis of race or color, gender, physical or mental ability, religion, socio-economic status, ethnic or national origin, affectional or sexual preference, Gender Identity or

expression, Genetic Information, or age.

C. There shall be a Human Rights Commission (“the Commission”) of 9 Amherst residents broadly representative of the community, appointed to 3-year terms by the Town Manager.

(1) The Commission shall advise the town, provide education and mediation to the community, and review all matters brought to its attention by the Director.

General Bylaws

Revised June 29, 2022

(2) The Commission, in conjunction with the Director, shall act to promote full implementation of the Town’s “Human Rights Policy,” as set forth in this bylaw, for any and all persons coming within the Town.

(3) The Commission shall advise and assist the Town Manager and Director in the achievement of affirmative action/equal opportunity objectives.

(4) The Commission shall conduct and participate in educational activities related to its responsibilities.

D. There shall be a Human Rights Director (“the Director”) who shall be appointed by the Town Manager.

(1) The Director shall enforce and carry out the “Human Rights Policy” adopted in this bylaw to its fullest extent.

(2) The Director shall, upon receiving a written complaint from any person or regarding matters pursuant to this bylaw otherwise brought to the Director’s attention, investigate promptly the circumstances of any situation within the town allegedly denying or threatening to deny in whole or in part to any person within the Town on any basis identified in subsection B. The Director shall ascertain the facts concerning the alleged denial of rights in accordance with the procedures to be adopted pursuant to section D (3) of this bylaw. The Director shall coordinate efforts with law enforcement in the investigation, prosecution, [and prevention of hate crimes](#). The Director shall inform the chair and vice-chair or co-chairs of the Commission of all complaints against the Town Manager and Town Council. Complaints against the

Town Manager shall also be referred to the Town Council. Complaints against the Town Council shall also be reported to a governmental agency having jurisdiction.

(3) The Director shall, in writing, establish procedures by which investigations shall be conducted. In establishing procedures, the Director shall consider the privacy and other rights of the complainant, respondent, and witnesses in light of the Public Records Law ([M.G.L. c. 4, § 7, clause 26](#), [M.G.L. c. 66](#), and [950 CMR](#)), the right against self-incrimination, and the right to due process of law. These procedures shall be approved by the Town Manager prior to implementation.

(4) The Director shall, thereafter, make efforts (including conciliation conferences) as the Director deems reasonable and appropriate to resolve, by voluntary action on the part of those persons involved, the situation giving rise to the investigation.

(5) If voluntary action is not forthcoming or is deemed by the Director to be inadequate, the Director shall, after notice to all persons involved, report the matter to:

- a. the Town Manager, who may report to the Town Council;
- b. local or Massachusetts State Police on any matter within their jurisdiction, respectively;
- c. the Massachusetts Commission Against Discrimination;
- d. the Office of the Attorney General;
- e. the United States Department of Justice; or
- f. any other governmental agency having jurisdiction of the matter in question.

E. Not less than twice per year, the Director, in conjunction with the Town Manager, shall inform the Commission of the Director's activities; and the Commission shall provide input on those activities and other matters of concern to the Commission.

F. The Commission, in conjunction with the Director, shall annually prepare and submit to the Town Manager and Town Council a report on "The State of Human Rights in Amherst" with recommendations it deems appropriate concerning matters within its charge. The Commission shall furthermore, as part of its review function, submit reports and recommendations to the Town Manager or civil rights agencies outside of Amherst, as it may

deem appropriate. The reports shall take reasonable precautions to protect the privacy interests of all parties involved.

II. Human Rights Commissions from across the state operate very differently. Here are a few examples

[City of Boston](#)

[City of Cambridge](#)

[City Of Lynn](#)

[City Of Beverly](#)

[Town of Arlington](#)

[City of Chelsea](#)

III. Town of Arlington Procedures

Section 7. Complaint Resolution Procedures

A. Any person or class of persons claiming to be aggrieved by an alleged violation of this Bylaw shall make, sign and file with the Commission a verified complaint in writing which shall state the particulars and other such information as may be required by the Commission, including, if known, the name and address of the person alleged to have committed such violation. The Commission may also, on its own, issue a complaint whenever it has reason to believe that any person has engaged in a practice that violates this Bylaw.

B. No complaint shall be considered unless it is filed within four months after the occurrence of the practice alleged to violate this Bylaw, or unless it has been referred to the Commission by the Massachusetts Commission Against Discrimination or the Equal Employment Opportunity Commission after having been filed in a timely manner with either or both agencies.

C. The filing of a complaint, the failure to file a complaint, or the dismissal of a complaint by the Commission shall not bar the complainant from seeking relief in any other administrative or judicial forum.

Nor shall filing or failing to file a complaint with other federal, state or town agencies or courts bar the complainant from seeking relief through the Commission.

D. After the filing of any complaint, the Chairperson of the Commission shall designate the Executive Director or one or more of the Commissioners to oversee a prompt investigation thereof with the assistance of the staff of the Commission.

E. After such investigation, the Executive Director or the designated Commissioner(s), as the case may be, shall promptly file a report of such findings with the Commission, which shall determine whether or

not to dismiss the complaint. The Commission shall, within ten working days from such determination, notify the complainant in writing of such determination.

1. If such Commissioner(s) determine(s) after such investigations that cause does exist to support the allegations of the complaint or if the Commission so determines, notwithstanding a negative report from such Commissioner(s), the Commission shall forthwith endeavor by mediation to eliminate the practice that violates this Bylaw.

The Commission and its staff shall not disclose the terms of mediation when the complaint has been disposed of in this manner pursuant [to G.L. c.233 Section 23C](#) unless both parties agree to the disclosure. The Commission may issue orders consistent with its findings during the mediation process.

2. In the case of such a finding under Section VII.E., as part of the mediation process the Commission may issue an informal admonition to the respondent. Such a finding shall not be published or made public, pursuant to G.L. c.233 Section 23C.

3. Alternatively, in the case of such a finding of a more serious nature under Section VII.e.1., the Commission may issue a private reprimand to the respondent. A party receiving a private reprimand shall not be eligible for a similar disposition for two (2) years. Such finding shall not be published or made public pursuant to G.L. c.233 Section 23C.

F. The respondent shall have the right to appeal any action of this Commission to a court of competent jurisdiction, as provided by law.

Proposed procedures for Amherst.

Section 3:3. Complaint Resolution Procedures

- A. Any person or class of persons claiming to be aggrieved by an alleged violation of this Bylaw shall make, sign and file with the Commission a verified complaint in writing which shall state the particulars and other such information as may be required by the Commission, including, if known, the name and address of the person alleged to have committed such violation. The Commission may also, on its own, issue a complaint whenever it has reason to believe that any person has engaged in a practice that violates this Bylaw.**
- B. No complaint shall be considered unless it is filed within six months (180 days) after the occurrence of the practice alleged to violate this Bylaw, or unless it has been referred to the Commission by the Massachusetts Commission Against Discrimination or the Equal Employment Opportunity Commission after having been filed in a timely manner with either or both agencies.**
- C. The filing of a complaint, the failure to file a complaint, or the dismissal of a complaint by the Commission shall not bar the complainant from seeking relief in any other administrative or judicial forum.
Nor shall filing or failing to file a complaint with other federal, state or town agencies or courts bar the complainant from seeking relief through the Commission.**

- D. After the filing of any complaint, the Director or a designee shall oversee a prompt investigation.
- E. E. After such investigation, the Director or the designee, as the case may be, shall promptly file a report of such findings with the Commission, which shall determine whether or not to dismiss the complaint. The Director shall, within ten working days from such determination, notify the complainant in writing of such determination.
1. If the director determines after such investigation that cause does exist to support the allegations of the complaint the director shall forthwith endeavor by mediation to eliminate the practice that violates this Bylaw.
The director shall not disclose the terms of mediation when the complaint has been disposed of in this manner pursuant to G.L. c.233 Section 23C unless both parties agree to the disclosure. The Commission may issue orders consistent with its findings during the mediation process.
 2. In the case of such a finding under Section 3:3., as part of the mediation process the Commission may issue an informal admonition to the respondent. Such a finding shall not be published or made public, pursuant to G.L. c.233 Section 23C.
 3. Alternatively, in the case of such a finding of a more serious nature under Section 3:3., the Commission may issue a private reprimand to the respondent. A party receiving a private reprimand shall not be eligible for a similar disposition for two (2) years. Such finding shall not be published or made public pursuant to G.L. c.233 Section 23C.

IV. Questions for HRC

Should respondents be notified of a complaint?

Should the HRC director make a preliminary decision about the viability of a complaint?

What role if any does the HRC want in the complaint process? Active or oversight

Does the HRC desire to be notified of every complaint?

Would the HRC like to see an Engage Amherst Page or HRC dashboard?

What should be include in the State Human Rights in Amherst Report?

What type, number and scope of the educational activities does the HRC want to sponsor?

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