

**GOVERNMENTAL RECORDS REQUEST
COMPLAINT INVESTIGATION REPORT
COVER LETTER**

The following contains a redacted version of the investigation report relating to two complaints filed by Town employees against a public official. Information regarding certain aspects of the complaints and identifying information of the employees and witnesses, has been redacted. Employees of the Town maintain the right of confidentiality for information relating to a submitted complaint. However, when such complaints involve a public official or member of the public, State Statute does not afford the same protection for information relating to those officials.

This document is being shared as part of a governmental records request and the redacted report is now considered a public document.

The decision to make the document publicly available is for the purpose of allowing any interested party to have equal access to the report. Please be aware that both complainants, who's complaints are the subject of the investigation, supported public disclosure for the purpose of allowing a balanced interpretation of the report.

Please be aware, with any submitted employee complaint, the Town holds the responsibility to complete an investigate and determine the actions necessary to resolve any conflict. Should an investigation not be completed, the tax-payer holds the risk of being burdened with significant legal costs if the Town does not adhere to the requirements of all applicable State and Federal laws. This investigation was completed by a third-party to reduce any conflict of interest and was necessary to protect both the Town and employees, including the complainants, as well as protecting the rights of the respondent.

Due to the inherent privacy interest of the matter, the Town has been cautious in the release of information to adhere to all rights certain individuals maintain. On its face, complaints are exempt from public disclosure. However, the release of any document, or portions thereof, needs to be considered to understand if the public's interest in the information outweighs an individual's right to confidentiality. In this case, the public's interest in seeking information related to a public official outweighs the public official's right to privacy. As a public official, State Statue does not offer exemptions from such information being released.

This matter is considered to be resolved and the Selectboard is working to revise the Town's code-of-conduct policy to ensure the language is clear on the responsibilities we all share to maintain a positive environment.

**CONFIDENTIAL
REPORT OF
INVESTIGATION OF
HUMAN RESOURCES
COMPLAINT
April 8, 2026**

Amanda M. Brahm, Esq.





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**REPORT OF INVESTIGATION OF
COMPLAINANT 1 AND COMPLAINANT 2'S
COMPLAINTS AGAINST RESPONDENT**

I. BACKGROUND

On November 25, 2025, the Town of Conway's (the "Town") Human Resources Department received a complaint from Complainant 1 ("Complainant 1"), [REDACTED], regarding Respondent ("Respondent"), a Selectman for the Town (the "First Complaint"). The First Complaint alleged that Respondent had approached Complainant 1 [REDACTED]

[REDACTED] said something to the effect of "a woman on her knees, every man's dream." The next day, Respondent again approached Complainant 1 [REDACTED] allegedly hit [REDACTED] on the arm with [REDACTED]

On November 26, 2025, the Town's Human Resources Department received a complaint from Complainant 2 ("Complainant 2"), [REDACTED] (the "Second Complaint"). The Second Complaint alleged that on November 24, 2025, Respondent spoke to Complainant 2 while [REDACTED] was working and said, "I don't know how you have time to do any work when you are on vacation so often." [REDACTED] Respondent responded by saying that Complainant 2 takes more vacation than he does. [REDACTED]

The Town's counsel retained McLane Middleton to conduct an independent fact-finding investigation of the Complaints. Amanda M. Brahm was the lead investigator and drafted this report, with assistance from Margaret A. O'Brien.¹ John Eastman, the Town Manager, notified Respondent of the investigation and Respondent was also provided with copies of the First Complaint and the Second Complaint (collectively, the "Complaints"). The Investigator interviewed Respondent about the Complaints' allegations and gave Respondent an opportunity to provide supplemental information or written documents to the Investigator. The investigation focused on (1) determining whether the conduct alleged in the Complaints could be substantiated by a preponderance of the evidence; and (2) if so, whether any substantiated conduct could potentially violate the Town's anti-harassment policies. The results of this investigation follow.

The Investigator did not attempt to resolve all interpersonal disputes among Town officials, employees or members of the public. In addition, the Investigator recognizes that certain alleged conduct [REDACTED]

¹ References to "I" or the "investigator" herein refer to Attorney Brahm.

[REDACTED]

[REDACTED] the Investigator did not presume that all conduct necessarily fell within the scope of Town employment policies. Lastly, the Investigator notes that certain information received during interviews concerned allegations of unprofessional conduct outside the scope of the formal Complaints. The Investigator considered this information only for the limited purpose of assessing credibility and plausibility where accounts of the charged allegations conflicted, and not as independent bases for any findings.

II. INVESTIGATIVE STEPS

A. Interviews

I conducted the following interviews. Interviews were primarily conducted over Zoom, although several were also conducted via telephone. Telephone interviews are indicated by an asterisk in the chart below.

Name	Title	Date Interviewed	By Whom
Witness 6	[REDACTED]	December 19, 2025	Amanda M. Brahm & Margaret A. O'Brien
Complainant 1	[REDACTED]	January 9, 2026; March 9, 2026; March 11, 2026*	Amanda M. Brahm
Complainant 2	[REDACTED]	January 14, 2026	Amanda M. Brahm
Respondent	Select Board Member, Town of Conway	January 28, 2026; March 18, 2026	Amanda M. Brahm
Witness 1	[REDACTED]	February 6, 2026; February 11, 2026*	Amanda M. Brahm
Witness 7	[REDACTED]	February 9, 2026	Amanda M. Brahm
Witness 2	[REDACTED]	February 11, 2026	Amanda M. Brahm

[REDACTED]

Witness 3	[REDACTED]	February 12, 2026*	Amanda M. Brahm
Witness 4	[REDACTED]	March 9, 2026*	Amanda M. Brahm
Witness 5	[REDACTED]	March 17, 2026	Amanda M. Brahm

B. Documents Reviewed

Source	Document
Witness 6	[REDACTED]
Witness 6	[REDACTED]
Complainant 2	[REDACTED]
Complainant 1	[REDACTED]
Complainant 1	[REDACTED]
Complainant 1	[REDACTED]
Complainant 1	Complainant 1's handwritten notes
Complainant 1	[REDACTED]
Complainant 1	[REDACTED]
Complainant 1	[REDACTED]

[REDACTED]

[REDACTED]	"3 – Non-Union Employee Manual" - Personnel Manual, Town of Conway, New Hampshire - Non-Union Personnel
[REDACTED]	"5 – Ethical Conduct" - Town of Conway, Board of Selectmen, Policy: Ethical Conduct
[REDACTED]	"2023 Adopted BOS Policies" -Town of Conway, Board of Selectmen, Rules of Procedure
Witness 7	[REDACTED]

C. Town Policies Considered

i. The Town's Non-Union Employee Manual²

The Town of Conway, New Hampshire Non-Union Personnel Manual (the "Manual"), prohibits sex-based harassment. Under the terms of the Manual, the sexual harassment policy purports to "refers not only to supervisor subordinate actions, but also to action between co-workers." The policy defines sexual harassment as:

. . . the attempt to control, influence or affect the career, salary or job of an individual in exchange for sexual favors. Sexual harassment can also be conduct that causes a hostile or offensive work environment or unreasonably interferes with a person's ability to perform his or her job. Sexual harassment is an extremely serious matter. It is prohibited in the work place by any person and in any form.

The Manual specifically prohibits the following conduct:

- a. Threats or insinuations, implicit or explicit, that any employee's refusal to submit to sexual advances will adversely affect the employee's retention, evaluation, wages, promotion, duties, or any other condition of employment
- b. Unwelcome sexual flirtations, advance or propositions
- c. Verbal or written abuse of a sexual nature
- d. Graphic verbal comments about an individual's body
- e. Sexually degrading words used to describe an individual

[REDACTED]

- 
- f. The display in the work place of sexually suggestive objects or pictures

The Manual also prohibits “personal harassment,” defined as, “a pattern of inappropriate behavior that a reasonable person would consider to be humiliating.” The Manual makes clear that “an isolated insult or adverse comment while not appropriate does not constitute personal harassment.” The Manual specifically prohibits the following conduct:

- a. Ongoing condescending comments
- b. Repeated offensive gestures or comments
- c. Ongoing or repeated practical jokes which result in insult or embarrassment to an employee
- d. False accusations
- e. Abuse of authority which negatively disrupts or prevents the performance of workplace duties, or requests to perform duties outside the scope of job requirements such as requests for personal errands.
- f. Intimidation or coercion
- g. Bullying
- h. Actions which create a hostile, intimidating or offensive work environment . . .

The Town Manual also prohibits hostile work environments and “specifically prohibits behavior by employees or Town officials that promotes an intimidating or hostile work atmosphere for any of its employees.....no employee shall be expected to work in conditions or situations that constitute a hostile environment whether created by employees, Town officials or members of the general public. This includes public meetings or in the general work place.”

“Actions that can constitute a hostile work environment include but are not limited to verbal abuse (including derogatory remarks based on an individual’s race, color, religion, sex, age, handicap, or national origin), verbal threats, threats of physical harm, or attempts to discredit or attack your character, integrity, reputation or performance.....”



D. Evidentiary Standard

The standard of proof that is applied to reach the findings in this report is the preponderance of the evidence standard. That is, based on the available evidence, whether it is

[REDACTED]

more likely than not that the alleged conduct took place, and based upon those determinations, whether the alleged conduct could have violated the standards set by the Town's policies. This standard is also referred to as the 50% plus a feather standard or the 51% standard.

III. FACTUAL FINDINGS

A. The First Complaint

i. Complainant 1's Version of Events

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

While Complainant 1 was on
knees, Respondent came up behind Complainant 1, sighed, and said "oh, a woman on her
knees, every man's dream."

[REDACTED]

[REDACTED]

Respondent replied to Complainant 1 and said, "it's just
an old saying,"

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Respondent came up to Complainant 1,

Respondent proceeded to “flick” or “hit” Complainant 1 on the arm with [REDACTED]

[REDACTED]

3. Complainant 1’s Response to Respondent’s Conduct and Decision to Report

Complainant 1 remembers that [REDACTED] “immediately knew” [REDACTED] was going to report Respondent’s behaviors because it was the right thing to do. [REDACTED]

[REDACTED]

Complainant 1 reported Respondent’s conduct to [REDACTED] supervisor, [REDACTED]

[REDACTED]

After that, Complainant 1 [REDACTED] met with the Town’s HR Manager [REDACTED] created a written report of what Complainant 1 verbally reported to [REDACTED].

[REDACTED]

Complainant 1 reported experiencing significant distress about Respondent’s conduct, [REDACTED] This distress was visible during [REDACTED] interview [REDACTED]

[REDACTED]

ii. Respondent’s Version of Events

[REDACTED]

Respondent is resident of Conway and has deep ties to the community—he has owned his home for forty-six (46) years and grew up in the same neighborhood as [REDACTED] Respondent serves on the Town Board of Selectmen and several [REDACTED]

[REDACTED]

other boards

on November 19, 2025 Respondent spent most of the day at the Vaughan Medical Center Annual Food Drive.⁸ Respondent believes he was at the Food Drive from 11am until 1:30pm when he took a break to play Mahjong at the Community Recreation Center until 5pm. After playing Mahjong,

[REDACTED]

[REDACTED]

Regardless of the exact date, Respondent “absolutely” denies that he ever said, “oh, a woman on her knees, every man’s dream” to Complainant 1. [REDACTED]

Respondent also denies that he said, “that’s just an old saying,” to Complainant 1.

Respondent also denies that he ever hit Complainant 1 on the arm with [REDACTED]

[REDACTED]

From Respondent’s perspective, he had “no interaction” with Complainant 1 during [REDACTED]

Respondent was verbally informed of Complainant 1’s allegations by Mr. Eastman and was also provided with a copy of [REDACTED] report prior to his first interview with the Investigators.

[REDACTED]

[REDACTED]

iii. Witnesses’ Accounts

1. Witness 1

[REDACTED]

[REDACTED]

[REDACTED] Witness 1 remembered a time when Respondent made an inappropriate remark

[REDACTED]

in public about a private matter [REDACTED] When Witness 1 confronted Respondent about the remark he “laughed it off like it was a joke.” [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] While [REDACTED] was not standing close enough to be within earshot and could not hear what was said, [REDACTED] did see that words were exchanged between Respondent and Complainant 1 while Complainant 1 kneeling down. During the exchange, Witness 1 saw Complainant 1’s “body stiffen” and thought [REDACTED] “looked flustered” before [REDACTED] “got to [REDACTED] feet and got away from [Respondent] as soon as [REDACTED] could.”

Shortly after Witness 1 observed that interaction, Complainant 1 came over to [REDACTED] and told Witness 1 that Respondent had “made some kind of crude comment about how men like to see women on the floor on their knees.” Complainant 1 was “visibly flustered” when [REDACTED] reported this information to Witness 1. Witness 1 is not sure how much time passed between the exchange [REDACTED] observed between Respondent and Complainant 1 and the time Complainant 1 relayed this information to Witness 1, but thinks it was “pretty soon after.” Witness 1 was not surprised by Complainant 1’s report because Witness 1 believes that Respondent has [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Witness 1 did see Respondent “flicking” Complainant 1 “in the face” with something, but could not remember if that “something” was [REDACTED]

[REDACTED]

2. Witness 2

[REDACTED]

[REDACTED] Witness 2 is also aware that Complainant 1 works at the Town Hall, but does not interact with Complainant 1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Witness 2 does not recall that either Witness 1 or Respondent were close by. Witness 2 is confident that Respondent would not have been around [REDACTED]

[REDACTED] Witness 2 is sure that Respondent did not say, "a woman on her knees, every man's dream," to Complainant 1. Witness 2 is certain that Respondent could not have made that remark without [REDACTED] noticing because [REDACTED] was within ear range. Witness 2 also believes that if Respondent made a remark like that, [REDACTED] would have "called him on it" and "addressed it immediately." Witness 2 also does not recall that Complainant 1 appeared upset at any point [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3. Witness 3

[REDACTED]

[REDACTED]

Witness 3 does not remember Respondent coming over and speaking to Complainant 1

[REDACTED]

Witness 3 did not hear Respondent say, "a woman on her knees, every man's dream," to Complainant 1, but also said that [REDACTED] "would not have considered that an offensive thing to say."

[REDACTED]

[REDACTED]

Witness 3 reiterated that no one appeared to be upset with anyone.

[REDACTED]

[REDACTED]

4. Witness 4

[REDACTED]

Witness 4 does not have a close relationship with Respondent and finds his actions to sometimes be "self-centered."

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. Witness 5

[REDACTED]

[REDACTED] Witness 5 has a very high opinion of Complainant 1 [REDACTED] "extremely honest person" who would not "fabricate anything."

[REDACTED] Witness 5 also knows Respondent through mutual connections with other Conway residents and his work as a Selectman. Witness 5 has never had any "issues" with Respondent, but they do not have a close relationship.

[REDACTED]

[REDACTED] Complainant 1 told Witness 5 that [REDACTED] was planning to make a report to HR [REDACTED]

[REDACTED] Witness 5 could tell from Complainant 1's voice that [REDACTED] was upset, which was surprising to Witness 5 because Complainant 1 is "a very strong woman."

Complainant 1 told [REDACTED] Respondent said to [REDACTED], "oh, on her knees, every man's dreams."

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Witness 5 believes that [REDACTED] saw Respondent staring at Complainant 1 [REDACTED] after Complainant 1 made the report to HR.

Although Witness 5 has never personally heard Respondent make an inappropriate remark to a Town employee, [REDACTED] has been told about remarks Respondent has allegedly made to others, [REDACTED]

6. Witness 6

[REDACTED]

[REDACTED]

Complainant 1 reported that while [REDACTED] was "kneeling down" [REDACTED] Respondent came "very close" to [REDACTED] and said "one of those two quotes [in the First Report]." Complainant 1 reported that the remark "caught [REDACTED] very off-guard" [REDACTED] Complainant 1 told Witness 6 that Respondent said his remark was "just an old joke." After that, Complainant 1 said that [REDACTED] walked away. [REDACTED]

[REDACTED]

[REDACTED] the day after Respondent made the remark, he approached [REDACTED] with [REDACTED] hit [REDACTED] with it to get [REDACTED] attention.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

iv. Objective Evidence

1. Handwritten Notes

Complainant 1 produced a copy of handwritten notes that [REDACTED] created, chronicling the events described in the First Complaint. The notes state that on the afternoon of November 19, 2025, [REDACTED] Respondent approached Complainant 1 and said “[a] woman on her knees, every man’s dream.” [REDACTED] Respondent defended his remark by explaining, “[i]t’s just an old saying, [REDACTED]

[REDACTED]

Complainant 1’s notes are not dated and [REDACTED] could not recall exactly when [REDACTED] created them, but knows that [REDACTED] did not create the notes contemporaneously with the underlying events. Complainant 1 believes [REDACTED] created the notes a week or two after the events occurred because [REDACTED] wanted to make sure that [REDACTED] did not forget anything.

[REDACTED]

[REDACTED]

[REDACTED]

v. Credibility Determinations

In addition to considering all of the information provided through interviews and documentary evidence, the Investigator also considered the consistency or inconsistency in various accounts of events given over time, the parties' and witnesses' motives, the witnesses' relationships to the parties, whether other corroborative or contradictory evidence existed, as well as whether the parties' and witnesses' versions of events are plausible.

1. Complainant 1

I found Complainant 1 credible, [REDACTED]

I did not find any evidence to support a finding that Complainant 1 had motive to falsify [REDACTED] report. [REDACTED]

There is also evidence supporting the plausibility of Complainant 1's version of events. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] observation that Complainant 1 has been upset and out of sorts since [REDACTED] reported Respondent's conduct further corroborates that Complainant 1 was sincerely distressed by the remark.

While there is some discrepancy regarding the date when Respondent allegedly made the remark to Complainant 1, I do not believe this discrepancy materially undermines Complainant 1's credibility.

[REDACTED]

Since Complainant 1 has been so clear and specific about the substance of Respondent's remark and the context in which it was made, whether the remark was made on November 19, 2025, or a day later, does not seem material.

2. Respondent

I found aspects of Respondent's account to be credible and other aspects to be less persuasive when evaluated in light of the full record.

[REDACTED]

Respondent's credibility was bolstered by his willingness to acknowledge certain aspects of alleged conduct [REDACTED] and by his consistently positive statements regarding Complainant 1's contributions to the Town. However, I gave less weight to Respondent's suggestion that Complainant 1 may have been motivated to fabricate report [REDACTED]

[REDACTED] In light of these inconsistencies, I found that Respondent's explanation regarding Complainant 1's motivations to be unpersuasive.

[REDACTED]

Finally, I considered Respondent's responses to questions concerning matters outside the scope of the formal Complaints as part of an overall credibility assessment. [REDACTED]

3. Other Witnesses

The investigation did not reveal significant credibility issues with the other witnesses I interviewed. I recognize, however, that in large part, the witnesses were supportive of the parties with whom they had a close personal relationship. [REDACTED]

[REDACTED] I did not, however, get the impression that any witnesses were being dishonest on account of their personal relationships during the investigation process.

[REDACTED]

vi. Findings

Based on a preponderance of the evidence, I find that Respondent did approach Complainant 1 while [REDACTED] was on [REDACTED] knees [REDACTED]. I also find that when Respondent approached Complainant 1, he made a remark to [REDACTED] and the remark was something to the effect of, "a woman on her knees, every man's dream." I am unable to determine the exact date upon which the remark was made, but find that it most likely occurred at some point between November 19, 2025, and November 21, 2025, [REDACTED]

I am able to make this finding based on the consistency of Complainant 1's multiple reports and the fact that Complainant 1 immediately reported the incident [REDACTED]. Further, Witness [REDACTED] personally observed an interaction between Respondent and Complainant 1 and Witness [REDACTED]'s description of what [REDACTED] observed aligns completely with Complainant 1's version of events, including that Respondent was standing near Complainant 1 when [REDACTED] was kneeling [REDACTED] and that Complainant 1 became flustered, said something to Respondent, and then quickly removed [REDACTED] from the situation.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Although I found that Respondent was mostly credible, he was not forthcoming about all of his conduct. Complainant 1, however, was transparent, consistent, and thorough in [REDACTED] accounting of what occurred. Overall, applying the preponderance of the evidence standard, I am able to substantiate Complainant 1's allegations about the offending remark.

I cannot, however, substantiate Complainant 1's allegations regarding Respondent hitting [REDACTED] on the arm [REDACTED]

[REDACTED]

B. The Second Complaint

i. Complainant 2's Version of Events

[REDACTED]

[REDACTED] Complainant 2 rarely interacts with members of the Select Board in their official capacity, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Complainant 2 recalls that Respondent looked at [REDACTED] with a "grim look on his face" and said, "I don't know how you have time to do any work because you're on vacation so much." Respondent did not laugh or smile when he made this

[REDACTED]

remark to Complainant 2. Complainant 2 responded to Respondent and said, "I don't take many vacations," to which Respondent replied, "you take more than I do." Respondent then walked away [REDACTED]

[REDACTED]

Complainant 2 was offended by Respondent's remark because [REDACTED] does not abuse [REDACTED] vacation time and is often reminded that [REDACTED] needs to use [REDACTED] vacation time. Complainant 2 also felt that Respondent's remark was threatening because of his status as a Town Selectman, [REDACTED]

[REDACTED]

[REDACTED]

Complainant 2 decided to report Respondent's behavior [REDACTED]

[REDACTED]

[REDACTED]

ii. Respondent's Versions of Events

[REDACTED]

[REDACTED]

Respondent knows Complainant 2 through [REDACTED] work [REDACTED]
[REDACTED] Respondent would consider
Complainant 2 a friend. [REDACTED]

Respondent remembers seeing Complainant 2 [REDACTED] in November and recalls making a comment to [REDACTED] about [REDACTED] international vacation.¹³ Respondent was aware of Complainant 2's trip because he saw pictures on Facebook. Respondent remembers that when he saw Complainant 2 [REDACTED] that he remarked to [REDACTED], "[i]t must be nice to be such a world traveler." Respondent believes that he made this remark "flippantly, tongue and cheek." However, Respondent immediately realized that his remark "went over like a lead balloon," and was not welcome by Complainant 2. Respondent does not believe any other words were exchanged between him and Complainant 2 [REDACTED]
[REDACTED]

[REDACTED]

In hindsight, Respondent wishes that he phrased his remark differently and instead said, "[s]o nice to see all of your photos, I hope you had a nice trip." While Respondent wishes he handled this situation better, he denies that his comment had any connection to the Town's vacation policies. From Respondent's perspective, his role as a Selectman has "absolutely nothing to do with vacation" [REDACTED]
[REDACTED] Respondent believes his only involvement with employment benefits is when the Select Board reviews the budget once a year. Respondent "absolutely" does not feel that Town employees have too much vacation time.

[REDACTED]

iii. Witnesses' Accounts

1. Witness 7

[REDACTED]

As for Respondent, Witness 7 does not have a personal relationship with him, [REDACTED]
[REDACTED]

[REDACTED] Witness 7 heard Respondent say something to the effect of,

¹³ Respondent believes that this interaction occurred earlier than November 24, 2025, but he is not sure of the exact date.

[REDACTED]

“it must be hard getting your work done taking lavish vacations all the time.” Respondent’s “tone” was “so hostile” [REDACTED] Witness 7 is not sure what else was said between Respondent and Complainant 2, but believes Complainant 2 “played it off” and tried to “de-escalate” the situation.

[REDACTED]

[REDACTED] Witness 7 agrees that Respondent’s tone was “pretty nasty,” [REDACTED]

[REDACTED]

[REDACTED] Witness 7 interpreted Respondent’s conduct as aggressive.

iv. Credibility Determinations

I found Complainant 2 and Witness 7 to be credible witnesses. Their observations of Respondent’s conduct and their accounts were consistent with one another.

I found aspects of Respondent’s account to be credible, including his admission that he made a remark to Complainant 2 regarding [REDACTED] vacation and his acknowledgment that the remark was not well received by Complainant 2. However, Respondent’s characterization of the exchange differed materially from the accounts offered by Complainant 2 and Witness 7, particularly with respect to the tone and impact of the remark. Based on the totality of the evidence, I gave greater weight to the contemporaneous and consistent accounts of Complainant 2 and Witness 7 in evaluating this interaction.

[REDACTED]

[REDACTED] Overall, I found the corroborated accounts of Complainant 2 and Witness 7 to be more persuasive on that point.

v. Findings

Based on the preponderance of the evidence, I find that Respondent did make a remark about the amount of vacation time that Complainant 2 took. I also find that the tone Respondent used when making that remark was harsh and that it was reasonable for Complainant 2 to interpret Respondent’s statement as being critical of [REDACTED] vacation time. I can make this finding because Complainant 2’s recollection and interpretation of Respondent’s

[REDACTED]

conduct is the same as Witness 7, who also witnessed the interaction firsthand. [REDACTED]

[REDACTED]

I cannot, however, conclude that Respondent intended to threaten Complainant 2's entitlement to employment benefits. Although I understand how Complainant 2 might have come to that conclusion, Respondent credibly pointed out his limited role and authority in determining [REDACTED] vacation time. For those reasons, I do not interpret Respondent's remarks as threatening.

IV. ANALYSIS OF POTENTIAL TOWN POLICY VIOLATIONS

A. The First Complaint

I considered whether Respondent's remark to Complainant 1 could amount to either "personal harassment," "sexual harassment," or a "hostile work environment," in violation of the Manual. Under the terms of the Manual, I do not make any recommended findings of a Town policy violation.

Regarding personal harassment, I do not find that Respondent's conduct amounts to personal harassment because the remark was a one-off, rather than a "a pattern of inappropriate behavior," as contemplated by the Manual.

I also do not believe Respondent's conduct violated the Manual's policy on sexual harassment. As a threshold matter, since Respondent is not a Town employee, it is not clear that the sexual harassment policy applies to him because the policy's scope is internally inconsistent. On the one hand, the sexual harassment policy appears to be limited to conduct by Town employees because it states, "[t]his policy refers not only to supervisor subordinate actions, but also to action between co-workers." On the other hand, though, the policy also purports to prohibit sexual harassment "in the work place [sic] by any person in any form."

[REDACTED]

[REDACTED]

[REDACTED]

As a starting point, I agree that Respondent most likely made the remark on account of

[REDACTED]

Complainant 1's sex. I am able to make that finding because the remark was not facially neutral and made express reference to Complainant 1's sex. However, isolated comments or offhand remarks, standing alone, are rarely, if ever, sufficient to create a hostile work environment. While the Manual does not expressly require that conduct be severe, pervasive, or objectively offensive in order to constitute sexual harassment, I have trouble concluding that one remark, which has only an attenuated connection to the workplace could be sufficient to create a hostile work environment. This is especially true when the remark is unwelcome, but not particularly graphic or sexually explicit, as is the case here. Although I recognize that Respondent's position on the Board of Selectmen creates an inherent power imbalance between him and a Town employee [REDACTED] I do not believe that factor is enough to alter this analysis.

The hostile work environment policy presents a closer call because it does expressly extend to "situations that constitute a hostile work environment whether created by employees, Town officials or members of the general public." (emphasis added.) [REDACTED]

[REDACTED] I cannot conclude that an isolated remark of this nature constitutes verbal abuse, particularly since the policy seems to define "verbal abuse" as "derogatory remarks based on an individual's [protected characteristics]" as opposed to "a single derogatory remark."

For these reasons, I do not recommend that the Town finds that Respondent's remark to Complainant 1 constitutes a violation of Town policy.¹⁴

B. The Second Complaint

I considered whether Respondent's remark to Complainant 2 could amount to either "personal harassment," "sexual harassment," or a "hostile work environment," in violation of the Manual. Under the terms of the Manual, I do not make any recommended findings of a Town policy violation.

As for "personal harassment," Respondent's remark to Complainant 2 was a one-off, as opposed to a "pattern of inappropriate behavior." While I did find that Respondent made a second inappropriate comment to another [REDACTED] the personal harassment policy seems focused on whether there is a pattern of behavior targeted at a particular individual, rather than a class of employees. Further, even if it were appropriate to consider both comments in the aggregate, it does not seem likely that two comments—uttered a year apart—would be enough to constitute a "pattern."

I also cannot recommend a finding under the "sexual harassment" or "hostile work environment" policies because there is no evidence that Respondent's conduct was connected

¹⁴ I did not consider whether Respondent's conduct may violate the Selectmen's Board of Ethics because it is my understanding that the Town is not empowered to enforce that policy.

[REDACTED]

to Complainant 2's protected characteristics. To begin with, Respondent's remark was facially neutral. On top of that, I did not find any evidence that Respondent has treated similarly situated [REDACTED] more favorably. [REDACTED]

[REDACTED] I cannot infer that Respondent's behavior towards Complainant 2 was on account of [REDACTED] sex and therefore the sexual harassment and hostile work environment policies are not implicated.

[REDACTED] I agree that Respondent's behavior fell short of the Code's expectations for respect [REDACTED] staff, but do not believe that Respondent engaged in the sort of "abusive," "threatening," or intimidating" behavior that would violate the Code. [REDACTED]

V. CONCLUSION

For the foregoing reasons, I find that certain of the factual allegations of the Complaints are substantiated, but I do not recommend finding that Respondent violated the Town policies that I reviewed.