

THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION  
One Ashburton Place, Boston, MA 02108  
Phone: (617) 994-6000 Fax: (617) 994-6024

Date: March 28, 2023

Town of Swampscott  
Attn: Peter Kane, Director of Human Resources  
22 Monument Ave  
Swampscott, MA 01907

RE: Briana Reder vs Town of Swampscott  
MCAD Docket Number: 23BEM00601  
EEOC/HUD Number: 16C-2023-01010

SERVICE OF COMPLAINT AND NOTICE OF INVESTIGATIVE CONFERENCE

Dear Respondent:

The Massachusetts Commission Against Discrimination (MCAD) has received the above complaint of discrimination which alleges that you have committed an act of discrimination against the Complainant. A copy of the complaint is enclosed. The Commission has assigned a staff person to conduct an impartial investigation of the complaint. This MCAD Investigator will keep the parties informed of the course of the investigation.

**You must preserve all information and documents that may be (or lead to) evidence relevant to the charge of discrimination, as required by MCAD regulations found at 804 CMR 1.05(1) (2020).**

You are also required to submit a formal written answer to the complaint, called a position statement, in accordance with 804 CMR 1.05(8)(a) and (d) (2020). The position statement must be submitted 21 days of receipt of this notification. You must sign the position statement **under the pains and penalties of perjury, and, if you have an attorney, your attorney must also sign the position statement.** A copy of the position statement must also be forwarded to the Complainant at the address listed on the enclosed complaint. Failure to file a position statement within the prescribed time may result in sanctions being imposed in accordance with 804 CMR 1.07 (2020).

In order to reduce the time necessary to investigate and resolve complaints of discrimination, the MCAD has scheduled an investigative conference with the parties, which will be held on **08/10/23 at 02:00 PM.** **The Investigator will contact you regarding the logistics (telephone, video conference, or in person) for the investigative conference. Your attendance at the investigative conference is mandatory, and a failure to attend may result in an investigative default in favor of Complainant, or other consequences as outlined in 804 CMR 1.05(10)(e) (2020).**

Pursuant to 804 CMR 1.06 (2020), the Commission may be able to offer the parties free mediation of the dispute as an alternative to often lengthy and expensive litigation. Please note, however, that absent special circumstances, the Commission will not conduct a mediation prior to the filing of the position statement.

Please be advised that position statements should be addressed to Tania Taveras, Administrative Assistant. If you have any questions concerning position statements please contact Tania Taveras at (617) 994-6066 or [tania.taveras@mass.gov](mailto:tania.taveras@mass.gov).

If you have any questions pertaining to the investigative conference, please contact Elizabeth Davey at 617-994-6049 or [elizabeth.davey@mass.gov](mailto:elizabeth.davey@mass.gov).

Sincerely,

Elizabeth Davey  
Investigator

The Commonwealth of Massachusetts  
Commission Against Discrimination  
One Ashburton Place, Boston, MA 02108  
Phone: (617) 994-6000 Fax: (617) 994-6024

MCAD DOCKET NUMBER: 23BEM00601  
FILING DATE: 03/14/23

EEOC/HUD CHARGE NUMBER: 16C-2023-01010  
VIOLATION DATE: 02/09/23

Name of Aggrieved Person or Organization:

Briana Reder

Primary Phone: [REDACTED]

Named is the employer, labor organization, employment agency, state/local government agency, or other entity who discriminated against me:

Town of Swampscott

Attn: Peter Kane, Director of Human Resources

22 Monument Ave

Swampscott, MA 01907

Primary Phone: (781)596-8850 ext. \_\_\_\_\_

No. of Employees: 25+ Work Location: Swampscott, MA

Cause of Discrimination based on:

Sex, Female.

The particulars are:

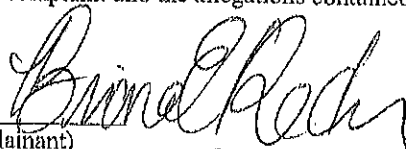
I, Briana Reder, the Complainant, believe that I was discriminated against by Town of Swampscott, on the basis of Sex. This is in violation of M.G.L. c. 151B, Section 4, Paragraph I and Title VII.

1. I am a female.
2. On February 8, 2022, I was interviewed by Acting Chief David Kurz, Captain Joseph Kable, and Town Administrator Sean Fitzgerald for a full time Police Officer (non-Civil Service) position. During the interview, Mr. Fitzgerald asked me "If you could change a physical feature on yourself – what would you change?" I requested clarification about what he was asking because I thought it was inappropriate. He proceeded to state, yes, I want you to state a physical feature. I replied, "I wish I was shorter." He replied, "you are not that tall for a female" and requested that I further clarify because he did not like my answer.
3. Both Kable and Kurtz, independently reported to Human Resources that they felt uncomfortable with the question I was asked during the interview. According to them, males were not asked the "physical feature" question during their interviews.
4. During a conversation with Sergeant Candice Doyle on February 14, 2022, I informed her that I felt extremely uncomfortable about the question I was asked by Fitzgerald during the interview. According to Doyle males were not asked the same question.
5. On February 21, 2022, I was informed that I was to receive a call from Fitzgerald to apologize for the interview question. He called me to inform me that my application was moving forward in the process, but no apology was provided.
6. During the week of July 18, 2022, I visited the Town Hall to fill out employment paper work. During my visit I ran into Fitzgerald, who made comments about my sex and the characteristics of females as compared to males in law enforcement. He also mentioned that I was the only non-civil service female hired in the force. I believe that he was alluding to me being hired because of my sex and not my qualifications.
7. On July 27, 2022, I filed a complaint with Kable reporting the interview questions and alleging sex discrimination. I also requested that someone from the Police Department be present during future interactions with Fitzgerald.
8. On or about August 1, 2022, Kable received notification from Respondent's Human Resources Department that they would be conducting an investigation into my July 27, 2022 complaint.
9. On August 10, 2022, I received an email from Fitzgerald stating that he was sorry that any portion of his interview caused me to feel uncomfortable or upset.

10. On October 24, 2022, Union Representative Kevin Reen verbally requested from Assistant Town Administrator/Human Resources Director Peter Kane, a copy of Respondent's Harassment Policy. Kane informed Reen that Respondent did not have a Harassment Policy but followed best practices.
11. On February 6, 2023, while at Town Hall for my swearing in ceremony, Fitzgerald approached Sergeant Steve Luck and me. After shaking hands with Luck, Fitzgerald attempted to shake my hand. I walked away.
12. On February 9, 2023, I received an email from Kane, informing me that after careful review of the evidence, they concluded that my complaint against Town Administrator Fitzgerald did not violate Town Policy.
13. I believe that I was subjected to discrimination during the interview process because of my sex.

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I hereby verify, under the pains and penalties of perjury, that I have read this complaint and the allegations contained herein are true to the best of my knowledge.

Briana Reder  
(Signature of Complainant)



March 14, 2023

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Town of Swampscott  
Attn: Peter Kane, Director of Human  
Resources  
22 Monument Ave  
Swampscott, MA 01907

Person Filing Charge: Briana Reder  
This Person (Check One):  Claims to be aggrieved  
 Is filing on behalf of  
Date of Alleged Violation: 02/09/23  
Place of Alleged Violation: Swampscott,  
EEOC Charge Number: 16C-2023-01010  
MCAD Docket Number: 23BEM00601

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### NOTICE OF CHARGE OF DISCRIMINATION WHERE AN FEP AGENCY WILL INITIALLY PROCESS (See Attached Information Sheet For Additional Information)

You are hereby notified that a charge of employment discrimination under  
 Title VII of the Civil Rights Act of 1964  
 The Age Discrimination in Employment Act of 1967 (ADEA)  
 The Americans Disabilities Act (ADA)

Has been received by

- The EEOC and sent for initial processing to MCAD  
(FEP Agency)  
 The Mass. Commission Against Discrimination  
(FEP) Agency and sent to the EEOC for dual filing purposes.

While the EEOC has jurisdiction (upon the expiration of any deferral requirements if this is a Title VII or ADA Charge) to investigate this charge, EEOC may refrain from beginning an investigation and await the issuance of the Agency's final findings and orders. These final findings and orders will be given weight by EEOC in making its own determination as to whether or not reasonable cause exists to believe that the allegations made in the charge are true.

You are therefore encouraged to cooperate fully with the Agency. All facts and evidence provided by you to the Agency in the course of its proceedings will be considered by the Commission when it reviews the Agency's final findings and orders. In many instances the Commission will take no further action, thereby avoiding the necessity of an investigation by both the Agency and the Commission. This likelihood is increased by your active cooperation with the Agency.

- As a party to the charge, you may request that EEOC review the final decision and order of the above named Agency. For such a request to be honored, you must notify the Commission in writing within 15 days of your receipt of the Agency's issuing a final finding and order. If the agency terminates its proceedings without issuing a final finding and order, you will be contacted further by the Commission. Regardless of whether the Agency or the Commission processes the charge, the Recordkeeping and Non-Retaliation provisions of Title VII and the ADEA as explained on the second page of this form apply.

For further correspondence on this matter, please use the charge number(s) shown.

- An Equal Pay Act Investigation (29 U.S.C 206(d)) will be conducted by the Commission concurrently with the Agency's investigation of the charge.  
 Enclosure: Copy of the Charge

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#### Basis of Discrimination

Race                       Color                       Sex                       Religion                       National Origin  
 Age                       Disability                       Retaliation                       Other

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Circumstances of alleged violation:

SEE ENCLOSED COPY OF THE CHARGE OF DISCRIMINATION (or EEOC FORM 5)

Date	Type Name/Title of Authorized EEOC Official	Signature
3/28/2023	Feng An, Director	



# The Commonwealth of Massachusetts Commission Against Discrimination

1 ASHBURTON PLACE, ROOM 601, BOSTON, MA 02108

Sumila Thomas George  
Chairwoman

Monserrate Rodriguez Colón  
Commissioner

Nelly Jean-Francois  
Commissioner

## INSTRUCTIONS FOR SUBMITTING DOCUMENTS, PLEADINGS AND ATTACHMENTS

1. Do not use binders of any sort.
2. No double sided pages.
3. Do not punch holes in any documents.
4. **Do not use any staples or tabs within your documents.** However, clips of any style are acceptable.
5. Separate each answer with colored paper marked with the exhibit number.
6. Each question **MUST** be answered fully and without redaction of information except for redactions required by 804 CMR 1.21(4) (2020), as outlined below in paragraph 11. If you have concerns about the information to be provided, please contact the investigator prior to the due date.
7. Do not use legal sized paper. Documents and pleadings should be submitted on paper that is 8.5"X11".
8. Because scanned documents become illegible, do not highlight text. If there is information on the page that you wish to point out, place a colored, *removable* tab on the page itself by the information or otherwise identify the information in your materials.
9. For clearest scanning resolution, use a print font that is at least 12 point. All other written materials must be legible.
10. Please make sure that your documents are clearly referencing the assigned case docket number.
11. Parties and counsel must withhold or redact personal data identifiers in all filings, whether electronic or paper filings, as required by 804 CMR 1.21(4) and (5) (2020). The following personal identifiers shall be withheld if possible, or else redacted:
  - (a) Social Security, taxpayer identification, driver's license, state-issued identification card or passport numbers. If any such individual numbers shall be included in a filing, only the last four digits of that number should be used.
  - (b) Names of minor children. If the involvement of a minor child shall be included in a filing, they shall be referred to only as "minor child," although multiple minor children shall be distinguished from one another numerically, i.e., "minor child 2."
  - (c) Dates of birth. If an individual's date of birth shall be included in a filing, only the year should be used.

(d) Financial account, credit or debit card numbers. If any such financial account numbers shall be included in a filing, only the last four digits of these numbers should be used.

(e) Medical record numbers. If any such medical record numbers shall be included in a filing, only the last four digits of these numbers should be used.

(f) Mother's maiden name. If a person's mother's maiden name is identified as such, only the first initial of the maiden name shall be used.



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## INVESTIGATIVE CONFERENCES

### WHO?

- The MCAD investigator will lead the conference.
- Complainant is expected to attend, with legal counsel (if represented).
- All named Respondent(s) must attend. Respondent's legal counsel should attend with one representative of Respondent who has first-hand knowledge of the facts of the case.
- Do not bring witnesses unless requested by the MCAD investigator.
- Attorneys must file a Notice of Appearance before or at the time of the conference.
- If you do not speak English, please provide the investigator with adequate notice before the conference.

### WHY?

- Investigators hold conferences to gather evidence, identify disputed issues, and clarify the parties' positions. Conferences give the investigator an opportunity to ask specific questions in person about issues and facts relevant to determining whether probable cause exists.
- Investigative Conferences permit the parties to meet the investigator and to present the facts or evidence most relevant to the investigation.

### WHAT?

- Each conference typically lasts 20 minutes.
- Be fully prepared to answer questions from the investigator about the facts of the case. The investigator will ask questions of both parties and may issue requests for additional information.
- Some investigators hold conferences with several cases in the room at one time. Be courteous and quiet during all conferences. Turn off or silence cell phones.
- What to Bring:
  - Your copy of all submitted documents (i.e. complaint, position statement, and rebuttal).
  - Paper and pen to take notes on the investigator's information requests.
- What Not to Do:
  - Discourteous behavior will not be tolerated.
  - This is not a hearing.
    - Cross-talk between the parties is prohibited.
    - There will be no cross examination.
    - Argument of motions will not be permitted.
  - Do not prepare a long opening statement. The investigator may permit a very brief statement.
  - This is not mediation. If you are interested in mediation/settlement, notify the investigator.

### WHERE?

- In general, investigative conferences are held either at the MCAD's Boston or Springfield offices. Go to the MCAD office where the charge was filed, unless instructed otherwise.
- If a participant is located out of state, contact the investigator to request a teleconference.



## **WHEN?**

- The Investigative Conference date is automatically scheduled at intake/filing. The conference will be held on the date and time listed on the service letter, unless you are otherwise notified by the MCAD.
- Rescheduling a conference is extremely difficult. If you must reschedule, you may submit a written request stating the good cause reason for rescheduling to the investigator. If an emergency arises, notify the investigator as soon as possible.



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## **NOTICE OF OPTION TO MEDIATE**

As a party to a pending complaint at the Massachusetts Commission Against Discrimination, the Commission invites you to participate in an effort to resolve the complaint through mediation. Mediation is a process offered by the Commission at no cost in which parties involved in the charge of discrimination meet together with a mediator at the Commission and work to try and resolve the case before the investigation is complete and an initial finding has been made.

Mediation is not mandatory. However, it is highly recommended for its advantages. Its goal is an early resolution which can save the parties time and costs and avoid the draining of the parties' resources, energies and emotions. It is a voluntary, non-adversarial process in which the mediator assists the parties to acknowledge factual and legal issues, review the relative strengths and weaknesses of their positions, identify individual and common interests and explore settlement alternatives.

Please note that absent special circumstances, the Commission will not conduct a mediation prior to the filing of the position statement. Also, both parties must elect to participate in mediation or it will not be scheduled. If both parties do not elect to mediate, the investigation will continue. Similarly, if mediation fails, the Commission's investigation will continue.

If you choose to participate in mediation at the Commission, please leave a detailed message for Vanessa Davila within ten (10) days of receipt of this Notice by calling (617) 994-6033 or by emailing [vanessa.davila@mass.gov](mailto:vanessa.davila@mass.gov).

MCAD  
Electronic Instructions for Submitting  
Position Statements Only

The MCAD requests that you electronically submit your Position Statement.

- Please email your Position Statement to [bospositionstmts@mass.gov](mailto:bospositionstmts@mass.gov)
- In the Subject Line of your email, you must include your docket number, party names, and the first and last name of the MCAD Investigator assigned to your case. This information has been provided to you in the enclosed letter.

An example of the Subject Line entry, per the above requirements would be:

Docket Number - Parties – Investigator First and Last Name

19SPH11111 - Bob Smith v. XYZ Entity – Michael Memmolo

The legal requirements for electronically submitting position statements are:

All position statements must be:

1. Signed by counsel, if represented by counsel and
2. Include the signed sworn affirmations of all Respondents.

MCAD regulations (804 C.M.R. §1.05(8)(c)) require you to serve printed copies of your position statement, including all attachments, if any, on the Complainant(s) and any attorney(s) of record for Complainant(s).

Attorneys must retain an original copy of the position statement to provide the MCAD upon request.

Technical requirements for electronic submission of Position Statements are:

All Position Statements must be:

1. Submitted in PDF format,
2. Cannot exceed 15 MB in size,
3. Must contain the docket number, party names, and the first and last name of the MCAD Investigator assigned to your case in the Subject Line.

If you are not able to send your Position Statement and attachments in one email you can submit multiple emails; however, the **subject line of EACH EMAIL MUST** contain the docket number, party names, and the first and last name of the assigned MCAD Investigator.

Please note:

The [sprpositionstmts@mass.gov](mailto:sprpositionstmts@mass.gov) email address only accepts position statements and position statement attachments. Please do not send any other documents or requests to this email address as those communications will not be reviewed or responded to. If you need to send other documents or have an inquiry relative to your case, please contact the MCAD investigator assigned to your case directly.

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Please note:

The [sprpositionstmts@mass.gov](mailto:sprpositionstmts@mass.gov) email address only accepts position statements and position statement attachments. Please do not send any other documents or requests to this email address as those communications will not be reviewed or responded to. If you need to send other documents or have an inquiry relative to your case, please contact the MCAD investigator assigned to your case directly.