

SAFETY AND RESPECT AT WORK, LLC

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CONFIDENTIAL

Safety and Respect at Work, LLC

Framingham, Ma. 01701

Jean C. Haertl

Chief Executive Officer

INVESTIGATION REPORT

I. Introduction and Scope

This report provides a summary of the findings, conclusions, and recommendations of the investigation into complaints of a toxic work environment alleged by four former Andover Youth Services (AYS) personnel against Andover Town Manager Andrew Flanagan, Community Services Director Jemma Lambert and Human Resources Director Jessica Porter. On August 27, 2021, the Town of Andover Town Counsel Tom Urbelis engaged Safety and Respect at Work to conduct an investigation into complaints contained within the August 19, 2021 resignation letters submitted by former AYS personnel Jacklyn Stackhouse, Anthony Lombardi and Neal Callahan. Former Program Assistant Neal Callahan initially complained of a toxic work environment to members of the Select Board during an open meeting of the Board on August 16, 2021. In addition, this report includes a summary audit of the Town's management of AYS including inter-departmental communications including e-mails and in person meetings between the complainants, members of Town management and former AYS personnel. Approximately 255 documents including, multiple texts and e-mails were reviewed throughout the course of this investigation/audit. This investigation also included a review of six hours of multiple recorded Select Board meetings from June through October, 2021. The investigation was conducted by Jean Haertl.

II. Summary of Allegations

Based on a review of their written August 19, 2021 complaints and from in person interviews including a review of the August 16, 2021 Select Board meeting, former AYS personnel Stackhouse, Callahan, Wilson and Lombardi alleged the following:

- a. Subsequent to Town Manager Flanagan's decision to place their supervisor-former AYS Director William Fahey on administrative leave on February 5, 2021 through August 19, 2021, Flanagan, Lambert and Porter created an "unsupportive and toxic work environment" in part by "engaging in poor communication" including "keeping them in

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the dark”, “offering no or limited supports to them,” and failing to adequately communicate with them with respect to the status of the Town’s investigation into allegations of misconduct against Fahey. They further alleged on February 5, 2021, Porter and Lambert unfairly “silenced” them by directing them not to speak with Fahey, the media or the general public regarding the Town’s investigation into Fahey.

- b. On May 12, 2021, during a meeting to inform them of Fahey’s dismissal, Community Services Director Jemma Lambert engaged in intimidating and threatening conduct towards them by stating “You work for the Town and not Bill- Remember who signs your paychecks. Don’t take your jobs personally.”
- c. On or about May 12-13, 2021 through August 19, 2021, Flanagan inappropriately directed Human Resources Director Jessica Porter to “regularly visit, babysit and unfairly monitor” AYS staff. They further alleged Porter’s decision to “box up Fahey’s belongings and work out of former AYS Director Fahey’s office” was inappropriate and disrespectful. Additionally, they alleged Flanagan and Lambert failed to adequately communicate with them and involve them in their plans to restructure AYS.
- d. From February 5 through August 19, 2021 Flanagan’s failure to name Acting Director Glenn Wilson to the Interim Director position caused them considerable anxiety and distress and resulted in their need to perform job duties without the support of a Director.
- e. On August 5, 2021, Flanagan engaged in “threatening and intimidating” commentary during a meeting with Wilson during a conversation about the media inquiries by stating “The louder the drum bangs, they deeper they dig.”

III. Pertinent Policies¹

¹ While the Town’s Employee Handbook includes a section titled *Public Relations* with language including Town employees are “*expected to maintain a professional manner with the public*,” the Town of Andover does not currently maintain an established Code of Professional Conduct including specific language prohibiting unprofessional or “toxic workplace” misconduct between and among personnel. Copies of the Town’s Ethics and Sexual Harassment Policy are included in the Appendix of this report.

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IV. Witnesses Interviewed²

- a. Jaclyn Stackhouse, former Outreach Worker, AYS
- b. Anthony Lombardi, former Program Coordinator, AYS
- c. Neal Callahan, former Program Assistant, AYS
- d. Glenn Wilson, former Assistant Director, AYS
- e. Andrew Flanagan, Town Manager
- f. Jemma Lambert, Director of Community Services
- g. Jessica Porter, Director of Human Resources
- h. Theresa Peznola, Purchasing Agent & Union President
- i. Patrick Hogan, Part-time Coordinator of e-sports and gaming, AYS
- j. Christian Huntress, Chair, Select Board
- k. Patrick Lawlor, Assistant Town Manager

V. Background of the AYS & Relevant parties

1. The Andover Youth Services Program was established in 1994, and managed and operated by the Town since its inception. Andover Youth Services (AYS) was created to respond to the community's need for quality programs and services for its young people. As described within the Town's website, *"AYS's [sic] mission is to develop and maintain a program that has the ability to be flexible and encourages youth to use their creativity and spontaneity in positive ways. The Andover Youth Services' four basic goals are: 1) recreational, educational, and social programs, 2) Support services 3) Youth-designed programs and services, and 4) Youth-involvement in Town's administrative procedures."*³ The Cormier Youth Center (CYC) is a Town owned facility operated by the Andover Youth Services division of the Community Services Department. The facility was funded by over \$5 million dollars in private donations, \$2 million dollars in town funds, and \$700,000 from the William M. Wood Memorial Trust. The state-of-the-art building is located within walking distance from Town Offices, a middle school, and the local high school. By all witness accounts, the program was started as a grassroots movement fueled by a number of teen suicides within the Town. The AYS program staff, including full and part-time personnel are compensated solely by the Town and considered "municipal

² A few of the witnesses were interviewed more than once including Flanagan, Lambert, Porter and Hogan. Stackhouse was accompanied by Union Representative Patty Crafts. Lombardi was accompanied by Attorney Thomas Flannagan and Union Rep Patti D'Agata. Callahan was accompanied by Attorney Tarek Zatet. Wilson was accompanied by Attorney Lawrence Casey. Lawlor was not formally interviewed. Lawlor was present as this investigator reviewed approximately 55 text messages and relevant e-mails obtained by the Town as a result of FOIA requests. SRW consultant Stephanie Chrisikos, Esq. was present during interviews with Flanagan, Lambert and Hogan. This investigator notes Stackhouse, Lombardi, Wilson and Callahan were all asked to provide the names of any additional witnesses they would like interviewed. Stackhouse did not respond to the request. With respect to their complaints, all other complainants indicated they had no additional witnesses or persons to be interviewed.

³ Emphasis added by this investigator

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employees.” With the exception of the AYS Director position, all full time AYS positions are subject to a collective bargaining agreement between the Union (Andover Independent Employees Association) and the Town.

2. AYS maintains a longstanding history of employing part-time seasonal workers from the Andover community including high school students. Multiple witnesses corroborated the program serves upwards of six hundred middle school aged youth per year who regularly participate in a wide range of programs including but not limited to: after school and summer programs, theater, skate park, team building, gaming, biking, various sports, and field trips. All witnesses interviewed described the program as “one of the best in the state—hugely successful and beloved by youth and residents within the community.”
3. Andover Town Manager Andrew Flanagan, began his tenure as Town Manager on October 13, 2015, formerly serving as the Deputy Town Manager in Arlington and as the Director of Policy and Administration for the City of Newburyport. In his current role, he directly supervises Human Resources Director Jessica Porter, Community Services Director Jemma Lambert, in addition to 15 other Department Heads. In 2016 he established the Community Services Department within the Town to provide support and management oversight to five divisions including Andover Youth Services. He stated his decision to create the new Department was “an effort to expand services through a more collaborative approach to service delivery.”
4. Select Board Chair Christian Huntress, a longtime resident of Andover, was elected to the Board in March of 2018 and currently serving on his second year of a three- year term. He previously served as the Chair of the Cormier Youth Center Building Committee. He indicated his children participated in the AYS programs and he remains a huge advocate and supporter of the program. He further stated he considered the former AYS Director Fahey “a friend and colleague.” Huntress also served on the Building Committee with Assistant AYS Director Glenn Wilson during the construction of the CYC building.
5. Jemma Lambert serves as the Director of Community Services hired on April 22, 2019. From April 2013 through April 2019, she served as the Director of the Community Services Department for the Town of Natick. In her current role, she oversees five Divisions including: the Recreation; Elder Services; Youth Services; Veteran Services; Andover DIVERSE; and Elder Services. She directly supervised former AYS Director Bill Fahey until his termination on May 10, 2021, subsequently supervising former AYS Assistant Director Glenn Wilson until his resignation on August 19, 2021.
6. Theresa Peznola, hired on April 4, 2018, is the Town of Andover’s Purchasing Agent and manages the Central Purchasing Division of the Finance Department for the entire municipality. Previously, she was the Purchasing Agent for the Town of Saugus. She has one direct report on the Town side, Purchasing Assistant Janet Brewer; and an indirect report on the school side,

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formerly Colleen Fitzpatrick. Peznola was elected to the Andover Independent Employees Association Executive Board in January of 2020, and subsequently elected Vice President in January of 2021, and President in May of 2021.

7. Jessica Porter serves as the Human Resources Director hired on November 2, 2020. She oversees the Town's Human Resources Department and also manages Human Resources for the Andover Public Schools. From September 2015 through October 2020, she served as the Human Resources Director for the Town of Belmont.
8. Glenn Wilson served as the Assistant Director of AYS hired on June 19, 1995. He indicated he and former AYS Director Bill Fahey founded the AYS program and "grassroots youth movement" in 1994. He indicated his former role included work at CVS. Wilson stated he and Fahey started and grew the program, which began with a small group of kids participating in after school activities, into "an amazing program" serving hundreds of Andover youth. Wilson additionally served as a member of the AIEA Union e-board. He described his former supervisor Fahey as a "tremendous friend and mentor." In his role at AYS, his responsibilities included: supervision of staff; writing financial reports; and budget work.
9. Jaclyn Stackhouse served as an AYS Outreach Worker hired on June 2, 2015. She is a certified and licensed social worker (MSW and LICSW). She indicated her work at AYS was "the best job she ever had." She oversaw after school programming for girls ages 11- 18, including but not limited to: yoga, cooking, fashion and field trips. Additionally, she facilitated training for seasonal employees.
10. Neal Callahan served as the AYS Program Assistant/Coordinator beginning May 29, 2011. He indicated he was initially hired as an AYS seasonal employee and met Fahey at the age of 17 while he was in high school. In his former role, he helped to run after school programs, wrestling, field trips, golf, drop-in programs, track and field, media, and basketball among other programs. He described Fahey as a tremendous mentor, friend and "founder" of the AYS youth program and movement.
11. Patrick Hogan, age 25, serves as a part time Program Coordinator. He was initially hired by AYS in 2015 to facilitate middle school "Ultimate" program for the Spring season. He left AYS for a short period and was re-hired in 2019. He is currently responsible for facilitating the e-sports and gaming programs at the AYS. He is also employed at Staples. He self-identified as "a high functioning autistic" individual and indicated he considers AYS and the former staff as "his second family." Subsequent to Fahey's termination and the resignation of the four full time AYS staff in August 2021, Hogan indicated he "is the only member of Fahey's former staff/team" currently employed at the Cormier Youth Center.
12. Bill Fahey served as the former AYS Director from 1994 through May 10, 2021. From 2019 through May 10, 2021, Fahey reported directly to Community Services Director Jemma

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Lambert. He directly supervised Assistant Director Glenn Wilson and provided program oversight and support to Stackhouse, Callahan and Lombardi in addition to other full time, part-time and seasonal staff. By all accounts, Fahey founded the program in 1994 and was responsible for fundraising.

VII. Summary of Findings: Background

1. On February 5, 2021, Flanagan placed former AYS Director Fahey on paid administrative leave pending the outcome of an independent investigation into allegations of misconduct. Based on the findings and conclusions of the investigation conducted by Attorney Regina Ryan of Discrimination and Harassment Solutions, Flanagan terminated Fahey on May 10, 2021.
2. Subsequent to Fahey's termination, the Town (Flanagan, Members of the Select Board , and Town Management) received "unprecedented" backlash from numerous Andover community residents and youth over Flanagan's decision to terminate Fahey. Based on a review of over six hours of recordings from Board of Selectmen meetings (June 2021 through October 2021). From corroborated statements from Flanagan and Board Chair Chris Huntress, the Board heard more than six hours of commentary and complaints from approximately 200 Andover residents and youth who complained Flanagan and the Town had "wrongfully" terminated Fahey. Numerous Andover community members present at the Board meetings complained Attorney Ryan's investigatory report into Fahey was "flawed," in that it did not include interviews with AYS staff and further called for Flanagan's dismissal. The subject of Fahey's termination received wide-spread media attention and generated numerous news articles. Fahey's supporters additionally created a website titled "We Believe in Bill [Fahey]" which includes a history of AYS and Fahey's involvement therein, an overview of the "Case" including but not limited to: Attorney Ryan's partially unredacted and redacted investigatory report; Fahey's lawsuit against Flanagan and the Town; testimonials; and an opportunity for viewers to "Share Your Story, Join the Movement, and Support Bill."
3. On or about May 11, 2021 through September, 2021, the Town received approximately 30 Freedom of Information Requests (FOIA) from community members and members of the press requesting various text messages, e-mails and information related to Fahey's termination.
4. On August 10, 2021, a local newspaper the Eagle Tribune issued a news story titled "*Giant ball of ethical problems- Former Inspector General questions payment by Andover Youth Foundation.*" The story highlighted alleged financial and ethical improprieties between Fahey and a non-profit including "merit" payments of approximately \$89,855 from an

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Andover non-profit to Fahey and a half dozen individuals including separate payments of \$6,500 each for AYS personnel Stackhouse, Lombardi, Wilson and Callahan.

5. On August 19, 2021, all four full time AYS staff (Lombardi, Callahan, Stackhouse and Wilson) resigned from their positions within the Town. With the exception of Wilson, staff including Stackhouse, Callahan and Lombardi cited “toxic, unsupportive and intolerable working conditions and environment” within their resignation letters. In preparing her letter of resignation, Stackhouse stated she spoke with Callahan and Lombardi and “they discussed and collaborated regarding the specific language” they would use to describe the toxic work environment in their letters.
6. Stackhouse, Callahan and Lombardi complained of a toxic work environment within their August 19, 2021 letters of resignation. They all indicated management created a unsupportive toxic work environment which negatively impacted their mental and physical health.⁴ It is noted none of the staff reported they believed their mistreatment by management was based on any protected category (i.e. age, disability, gender) as prohibited by the Town’s sexual and discriminatory harassment policy and M.G.L Chapter 151b.
7. Multiple witnesses corroborated the Town initially became aware of Callahan’s complaint during his commentary at the August 16, 2021 Select Board meeting.⁵ Based on corroborated statements from multiple witnesses, Town management did not receive any formal or informal complaints from staff from February 5 through August 16, 2021.
8. In his August 20, 2021 statement to the press, Flanagan wrote in relevant part: *“Regarding the information that is circulating about the alleged basis for the group resignation, since February 5, AYS has remained under the administrative oversight of Ms. Lambert with day to day direction provided by the Assistant Director of AYS. During that period of more than six months, no member of the staff or anyone else has suggested to any Town official that AYS has been a “toxic” or “hostile” workplace-until this week. Instead, these allegations were first made after the Select Board stated during a meeting on Monday evening, August 16, that it supports an independent investigation into these employees’ receipt of apparently unlawful payments from the Andover Youth Foundation and other potentially serious violations of the public’s trust.”*
9. Purchasing Agent and Union President Theresa Peznola indicated she met with Wilson and AYS staff on multiple occasions from February through August 2021. She stated, “At no time did I or a Town Union representative receive any grievances from Stackhouse, Callahan,

⁴ Staff resignation letters are included within the Appendix of this report

⁵ It is noted Callahan previously referenced his and AYS staff complaints of a toxic work environment in an e-mail to Board Chair Huntress on August 11, 2021. He alleged a “toxic work and fearful environment caused by a lapse of communication and prolonged process.”

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Wilson or Lombardi during that time frame.” Human Resources Director Jessica Porter indicated she did not receive any verbal or written complaints from staff prior to August 16, 2021. Community Services Director Jemma Lambert indicated from February 5 through August 16, 2021 throughout her conversations and meetings with Wilson and AYS staff, they did not complain to her about a “toxic work environment.”

10. Witnesses Wilson, Stackhouse, Lombardi and Callahan corroborated they did not complain to management during the aforementioned time period in large part because “they loved their jobs and working with kids and wanted to continue” in spite of losing their “longtime Director and mentor Bill Fahey.” Acting Director Glenn Wilson stated he did not include his claims of a “toxic work environment” within his resignation letter in part because he “didn’t believe it was the right time to air grievances.”
11. When asked to provide a definition of “a toxic work environment,” witnesses Callahan and Stackhouse indicated “it is hard to describe.” Callahan stated, “It’s a feeling. It’s tough to describe the feeling you get. It’s difficult for me to express fully.” Stackhouse stated, “It’s hard to articulate. I was working in a vacuum with no support. No one was listening and there was no willingness to work with us.” While the above witnesses could not clearly define a “toxic work environment,” all complainants provided similar accounts of specific incidents where they believed Town management’s conduct and commentary towards them was intimidating, unprofessional, and could be described as “toxic.”
12. Within his approximate four- minute address to the Select Board on August 16, 2021, Callahan complained about “a toxic work environment” created by Flanagan, Lambert and Porter. He stated in part, *“I stand with young people and I stand for myself as I speak about the toxic work environment that AYS has endured since February 5. As an organization we have been left in the dark by management. When were informed by Billy’s firing by Jemma Lambert, Community Services Director and Jess Porter, Human Resources Director we were told to remain silent about our opinions, told to remember who signs our paychecks, and encouraged not to take our jobs personally...and during the last seven months, our staff has had multiple emergency room visits for anxiety, high blood pressure and panic attacks. It’s hard to trust the words of those sitting in front of me when your actions, or rather lack of actions, don’t match up to what you say is best for AYS and the young people of Andover. Finally, I’m willing to give it all, because personally it is the right thing to do and I hope that me speaking here tonight will encourage others to speak up, stand up to bullies, and fight for who they believe in.”*
13. It is noted Callahan previously referenced his and AYS staff complaints of a toxic work environment in an e-mail to Select Board Chair Huntress on August 11, 2021. He wrote in relevant part: *“The last 7 months have been extremely stressful on all of our staff, we are doing our best to continue forward but have all struggled privately with the toxic work and*

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fearful environment caused by a lapse of communication and prolonged process." Huntress recalled he spoke with Callahan shortly after receiving the e-mail. He indicated Callahan called him on a Sunday and spoke with him about his concerns for approximately fifteen minutes. He stated Callahan focused on the need to appoint Wilson as Interim Director of AYS. Huntress stated, "He didn't mention the specifics of a toxic work environment. He did complain about Porter's presence in the CYC building. He told me they didn't even have time to grieve and the Town was moving in and watching over them. I assumed that is what he meant by toxic work environment." Huntress added, "I did not relay the specifics of conversation with Callahan to Flanagan. I would generally keep him informed if I were planning to meet with AYS staff however." Flanagan confirmed he was unaware Callahan had complained to Huntress about a toxic work environment.

14. Callahan further indicated from August 16 through August 19, 2021, no-one from the Town or Human Resources contacted him upon learning of his complaints. He stated, "After I made those comments to the Board, no-one from Human Resources or the Town, including Jemma Lambert, came to speak with me about my concerns and complaints. I waited each day to hear from someone. The fact that I didn't hear from anybody for days was part of the reason I chose to resign my position on August 19, 2021." Human Resources Director Jessica Porter stated, "I did not reach out to him at that time. We were barraged with work stemming from media and FOIA requests, and I was deeply involved in addressing recent allegations against Fahey and AYS staff related to potential financial and ethical improprieties. I believed the timing of Callahan's complaints to the Select Board constituted a reaction to him learning he was going to be investigated by the Town."
15. Wilson, Callahan, Stackhouse and Lombardi corroborated they considered Fahey a mentor, friend and tremendous leader and supervisor, and were "confused" when they learned from Lambert and Porter, on February 5, 2021, that he had been placed on paid administrative leave and was being "investigated for serious misconduct by the District Attorney's Office." Lombardi stated, "It was an emotional time. I felt traumatized." Lombardi, Stackhouse, Wilson and Callahan further corroborated they were utterly "devastated" when the Town and Flanagan terminated Fahey's employment on May 10, 2021.
16. It is noted throughout questioning, when asked to detail their specific allegations against Flanagan, Porter and Lambert, all four witnesses repeatedly redirected questioning to discuss the Town's "flawed" and "biased" investigation into Fahey. Witnesses Callahan, Wilson, and Lombardi all indicated Flanagan's decision to terminate Fahey constituted a serious injustice, and blow to the AYS program, that was not based on the facts contained within Ryan's investigatory report.

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17. During his address to members of the Select Board on August 16, 2021, prior to alleging a toxic work environment, Callahan's initial commentary focused on his longstanding friendship and working relationship with Fahey and his belief the Town had wrongfully terminated him. During his opening commentary to the Board he stated in part: *"I am so grateful to have landed here because it brought me to AYS, and even more important it brought me to Billy who I met when I was 17. Luckily for everyone here tonight Billy taught me love and kindness matters and that one person can make a difference. Billy was that difference for almost 27 years until he was walked out the door on February 5 and then on May 10 when Billy was fired. I knew that one day soon I would have to use all the lessons I learned from Bill at AYS. Billy taught me to speak and stand up for myself and others. To look at people's actions and not their words. Tonight, and for the rest of my life I stand with Bill and the Faheys as they face this injustice."*
18. In recalling his presentation to the Board, Callahan stated, "We had five strong people at AYS. A good solid working relationship. Bill was really in charge and our staff supported him. Bill founded the program. As soon as Bill left, the writing was on the wall to get us to fight against each other. I believed we had to stay together as a staff. Then the headlines came questioning the work we do. I had no intentions of leaving the job. We were silenced and left in the dark about the future. There was an absence of a Director when Bill left. The final straw was there was no plan from the Town on how we were going to move forward. Glenn was more than capable of doing the job. I was fed up at having no guidance, no director. I felt frustrated about the communication and untruths. The media reports that Bill was investigated by the District Attorney's office for sexual misconduct were found to be false. I was prepared to speak at the August 16, 2021 Select Board meeting. Young people were standing up for what was happening. The fact that I, along with AYS staff were previously silenced and not allowed to speak- that was a part of the toxic work environment. I still can't wrap my head around why Bill was fired. I felt he was targeted. This was all a plan to get us [AYs staff] to leave. I thought they'll be happy when we're gone. I didn't want to leave here."
19. Former Assistant AYS Director Wilson described a longstanding and "tremendous" friendship with Fahey, indicating they both built the AYS program "from the ground up." He stated, "We had a tremendously close working relationship—we were all a tight team. It was an excellent working environment. Bill oversaw the fundraising, community connections, all the programs- he was an idea guy." This investigator notes Wilson did not attend the initial scheduled interview with this investigator on August 30, 2021 due to a medical issue.⁶ It is further noted multiple witnesses described Wilson as "quiet, hard

⁶ This investigator interviewed Wilson for approximately three hours at a North Andover location on Monday, October 4, 2021.

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working and reserved.” Stackhouse stated, *“Glenn keeps things close to the vest.”* During questioning, Wilson acknowledged prior to February 5, 2021, he had several “negative experiences” with Flanagan and the Town and “did not trust” Flanagan or town management. In addition to a number of incidents, Wilson indicated he had been upset that he was never interviewed by Flanagan for the newly established Community Services Position in 2016. He further stated he believed Flanagan and Community Services Director Lambert had put pressure on him to unfairly “open the AYS up” to events unrelated to youth services.

20. Stackhouse further corroborated a “strong friendship and working relationship” with Fahey and members of the AYS staff. When asked why she didn’t complain prior to her resignation, she stated, “I wish I had been more vocal. I didn’t trust the Town based on what they had done to Bill and how they communicated with us. There was a complete vacuum of communication once Bill was placed on leave. There was no communication with us about the future plans for AYS or for the summer programs. I was surprised when I read in the news Flanagan was planning to restructure AYS and bring in a social worker. No-one from the Town spoke with us about that prior.” It is noted although Stackhouse stated she is a licensed social worker, she indicated she did not provide formal counseling to youth during as a part of her role at AYS.
21. Lombardi stated, “Fahey worked hard to prepare us every day. He let us be flexible with our schedules. I loved my job. I didn’t want to leave it.” It is noted Lombardi was highly emotional during questioning, frequently pausing to cry.
22. Part-time gaming and e-sports coordinator Patrick Hogan stated he considered former AYS staff “family” and former Assistant Director Wilson, “a second father” to him. He stated, “Once Bill got fired there was a 100% shift in what the place was. Staff were disillusioned and upset. Stackhouse talked about having anxiety attacks. When they resigned, they sat us down and told us it was clear Wilson was not going to be named Director. They had done so much and never got a thank you or any recognition for their work. They always had a distrust of Flanagan. The people in this building have to care about the kids. It feels like a school now. There is no passion and there is no heart in it. Even the posters they have put up are sterile. There was a blatant disrespect from the Town for what we did.”⁷
23. All complainants corroborated they maintained an extremely close working relationship with each other and considered their co-workers and former AYS Director Fahey “family.” Stackhouse indicated she and members of the former AYS staff regularly socialized outside of work. The further corroborated a deep “love” for working with AYS youth. Wilson and

⁷ Hogan took this investigator on a one hour tour of the AYS building including providing this investigator with a detailed description of the prior history, current programs and events. He further provided a link to a podcast delivered by Wilson describing the history of AYS.

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Stackhouse corroborated “this work is all about supporting the kids.” Wilson described his work with AYS staff and youth as “a Youth Movement.” It is noted Lambert, Peznola, Porter and Flanagan indicated they were aware former AYS personnel maintained a very close working relationship with each other and were deeply connected to former AYS Director Fahey. Multiple witnesses including Porter, Lambert and Peznola corroborated they believed the working relationship between Fahey and his staff was unusually close and “cult-like.” When asked if he believed Fahey and AYS staff were a “cult,” Wilson stated, “We are a part of a youth movement—not a cult.” Stackhouse stated, “That’s a word people use to describe something they don’t understand and are not a part of.”

24. Based on a review of multiple e-mails and texts sent from 2019 through 2020, between Fahey and AYS staff, multiple staff repeatedly wrote terms of endearment to Fahey including “love you,” and referred to the AYS as “the house of hope” and their work together to support youth “as a union of kindness.” In a message to Fahey on December 16, 2020, one former AYS staff-witness wrote in part, *“Just thank you in general for being you. I just wanted to say that I appreciate you immensely and you deserve all the thanks in the world from everyone. You’ve helped countless kids families and beyond and maybe this is the Nyquil talking but as far as I’m concerned you’re most likely the second coming of Jesus. You’re a great boss, teammate, husband, father, son and man. Fuck all the doubters, evil people and fakers.”* In his June 24, 2021 e-mail to AYS training consultant Joey Kotright (cc to Wilson, Stackhouse and Lombardi), Callahan wrote in part, *“Our team has had a difficult year between COVID and the loss of the Legend. AYS is searching for its voice again, try to continue to put kids first and push to keep the CYC as a house of hope for young people. We are not sure what the future holds for this place or us but we are working to figure that out one day at a time. We believe that MOXIE is what we all need in order to endure the trials ahead of us.”*
25. In Wilson’s June 16, 2021 e-mail to AYS staff Callahan, Lombardi and Stackhouse, to help prepare them for upcoming summer staff training, he included a prior June 20, 2019 e-mail from Fahey. The subject line of Fahey’s e-mail reads *“the union of 25 years of love and kindness.”* It is noted within Fahey’s e-mail to training consultant Joseph Kotright⁸ that he included a one sentence description of strengths and weaknesses of multiple AYS part time and summer seasonal staff. He wrote in part, *“You are an ambassador to our nation- the AYS nation. The entire staff needs to understand why they are here. Why they were chosen and what the expectation is to meet kids on trips and in the center. As leaders I think we have to know and understand what this union is all about. Our T shirts are our badges of*

⁸ Callahan stated Kotright was an outside consultant the AYS regularly used to provide training to seasonal summer staff. He is a Youth Organizer listed in LinkedIn as an Educator for the Holyoke Center School. It is noted Kotright attended the August 16, 2021 Board of Selectmen’s meeting to voice his concerns and was subsequently escorted by police out of the meeting.

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honor. Our contract, our values and an outward commitment to walk the walk, not talk the walk. The front will say THE UNION- forged in 25 years of love and kindness. The back (still working on it) will say something like GET UP, STAND UP, DON'T GIVE UP THE FIGHT." It is noted within his e-mail, Fahey repeatedly referred to his youth work and his AYS staff as "a union, a tribe, a family, and a sacred circle."

26. When provided a copy of Fahey's e-mail to Kotright, Lambert indicated she "had no idea" who Kotright was and had never met him prior to observing him during the August 16, 2021 Select Board meeting. Lambert further added she was not aware he provided staff training at AYS. When asked to respond to the language used by Fahey describing AYS staff as "a union, tribe and sacred circle," Lambert stated, "These people are so scary. The whole thing is horrifying. There was a cult."

a) February 5 & 8 2021 Allegations against Lambert and Porter meeting

27. In describing the specifics of their initial complaints, Stackhouse, Lombardi, Wilson and Callahan claimed they were caught off guard when Lambert and Porter entered the CYC building to inform them the Town had placed Fahey on leave pending an investigation. They alleged Porter and Lambert "blindsided them" by "entering the building unannounced" and subsequently "walk[ing] former Director Fahey" out of the building. They further alleged Porter unfairly "silenced them" by directing them to stay off social media and refrain from discussing the matter with youth and the general public.
28. Based on a corroborated statements from all relevant witness interviewed, it is undisputed Porter and Lambert met with staff on February 5, 2021, at the CYC building, to inform them the Town had placed Fahey on Paid Administrative Leave pending an investigation into allegations of misconduct brought by a former female Andover resident. Porter stated it was the first time she had been to the building since her hire in November 2020.
29. In recalling the details, Porter stated, "Jemma Lambert was supposed to set up the time for the meeting. We went over to CYC to meet with Bill to hand him the administrative leave letter. He was offsite and not in the building. Lombardi gave me a tour of the building. Lambert stayed back. She was texting Fahey. We left the building and came back to meet with Fahey. We met with him at 11:00 a.m. in the Phillips room. We gave him the letter placing him on leave. We retrieved his cell phone and called Facilities to secure his office. He was upset that we took his Town issued cell phone. Right after he left, we spoke with staff. Lombardi was upset with me and told me the tour he had taken me on was disingenuous. We told them Fahey had been placed on leave pending an investigation. We had discussions about them not commenting publicly about the situation.⁹ I told them to

⁹ Porter indicated in response to a separate 2017 investigation into Fahey by the Town, AYS staff had participated in protests, and made on-line and public commentary related to the investigation.

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refer all questions to me. They were upset. Their mindset was that Fahey had done nothing wrong. It was a brief meeting- possibly less than 20 minutes. Porter added, "It was all by the book. Fahey's leave letter was reviewed by Labor Counsel. Prior to meeting with AYS staff, I received guidance from outside counsel on how to properly message the process to staff. I don't believe we told them not to speak with Fahey. I believe Fahey was directed in writing not to have contact with AYS staff or participants."

30. Porter and Flanagan corroborated the Town maintained a consistent practice and process with respect to internal investigations. Flanagan stated, "When the Town is placed on notice of a potential policy violation by any personnel, I am obligated to conduct an investigation. Over the years, in response to claims of harassment and other potential policy violations, the Town has placed multiple personnel within other departments on paid administrative leave pending the outcome of an investigation. It is standard procedure for all involved to be directed to refrain from public commentary with respect to an ongoing investigation." It is undisputed on January 14, 2021, Flanagan engaged outside investigator Regina Ryan to conduct an independent investigation into Fahey.
31. In recalling the February 5, 2021 meeting with Porter and Lambert, Stackhouse stated, "It was the first time we had met with Porter. She and Lambert told us Fahey was being investigated and was not going to be working in the building. It was jarring. I was confused, sad, angry, and shocked. Lambert said she didn't know any details but that it [investigation] came from the District Attorney's Office."¹⁰ From a review of the February 5, 2021 text exchange between Stackhouse and former AYS Director Fahey, at 9:26 a.m., Stackhouse alerted Fahey to Porter and Lambert's presence at the CYC. She wrote, *"Jemma here with new hr director she just showed up and let herself in."* At 9:27 a.m. she wrote to Fahey, *"Tony talking to them giving very limited tour to the new lady."*
32. Lombardi stated "Porter and Lambert arrived unannounced. I welcomed Porter to the building and gave her a tour. They mentioned they were there to speak with Bill. Bill arrived and they shuttled him into a room. I believe he was asked to leave. They took his cell phone. They then sat down and told us there was going to be an investigation and we were not to speak or have any contact with him or comment about it on social media. As we left the 10-minute meeting, people were taking his computer and lock to his office. It was a very difficult time. We didn't really know or understand what was going on. They came under false pretenses."
33. Callahan described the events of February 5 as "very shocking." He stated, "A woman we've never seen before is walking around with Tony [Lombardi]. I find out they've removed Bill."

¹⁰ It is undisputed the initial complaint against Fahey was reported to a former employee of the Town who referred the matter to the District Attorney's Office. Subsequent to learning the DA's office declined to investigate the matter, Flanagan engaged an outside firm to investigate the allegations against Fahey.

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Porter and Lambert meet with us and inform us about the investigation. We were told not to speak with him or the media. We were silenced. Lambert tells us they can't give us any details but that the District Attorney's Office is investigating Bill. I later learned Lambert gave us false information including the fact that the DA's office had not investigated him."

34. This investigator notes all former and one current AYS staff corroborated they were "surprised" by Lambert's unannounced visit to the CYC on February 5, 2021 in part because they had rarely observed Lambert in the CYC building prior. Callahan sated, "Prior to February 5, 2021, zero times has Lambert come to meet with me or AYS staff." Lombardi stated, "I rarely saw her in the building. She maybe came to the building six times in any year." Stackhouse corroborated she was "surprised" to see Lambert enter the building unannounced given she rarely saw her in the building prior. It is noted current AYS part time staff Patrick Hogan indicated he never saw Lambert in the building. He stated, "I never once saw her here in the two and a half years I have been working here. I just met her in person recently the week of September 22, 2021, when she introduced herself to me during my gaming programs."
35. Lambert readily admitted, while she had made visits to the AYS staff at the CYC building in the past, during Fahey's tenure as Director, he "controlled access to his staff and 'his' building." She stated, "When I would visit the building, staff were 'outraged' when I was there. They would all come out as a team and try to not let me in."
36. In understanding the Town's obligation to address claim's of harassment, it is noted that witnesses Stackhouse, Wilson, Lombardi and Callahan's were asked if they had ever received training related to the Town's Harassment Policy and Procedures; they could not recall they had. Callahan indicated he may have attended an on-line training "years ago." When asked if Town personnel had received training on the Town's policies, including sexual and discriminatory harassment, Flanagan stated, "I believe they may have received on-line training back in 2017. That year I did have staff sign an acknowledgment form that they understood the policy."¹¹
37. It is undisputed the Town maintains an on-line Employee Handbook.¹² Section III of the handbook includes a four-page policy titled "*Sexual Harassment in the Workplace.*" The policy reads in part, "*We view allegations and concerns about sexual harassment very seriously and we will respond promptly and decisively to instances where complaints of sexual harassment are brought to our attention by use of the established procedures which are set out and explained in this written policy.*" It is noted the policy includes a statement that the Town may investigate allegations of harassment. It reads in part, "*An individual*

¹¹ Witnesses Stackhouse, Callahan, Lombardi and Wilson corroborated they completed an on-line ethics training

¹² The Sexual Harassment Policy language noted it was revised on September 1996.

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who believes that they have been subjected to sexual harassment has a right to file a formal complaint with his/her supervisor or, if appropriate, the Human Resources Director.

This may be done orally or in writing. The supervisor and the Human Resources Director will conduct an investigation in a fair and expeditious manner."

38. HR Director Porter readily acknowledged, since her hire in November, 2020, she was unaware of any sexual harassment prevention training conducted for neither Town supervisory nor non-supervisory personnel.
39. With respect to the Town's Employee Handbook and relevant policies, Porter wrote in part, *"I didn't even know this handbook and intranet site existed until September 7th when Kathryn [Town Manager's executive assistant] shared it with me. Andrew [Flanagan] didn't know until long after he started work in Andover. I don't think this was handed out as standard onboarding by my predecessor. So while this exists, it's unclear if any of the AYS staff (or other staff, for that matter) ever received it or were aware of it."*
40. Three days after informing AYS staff Fahey had been placed on leave, Lambert met with staff to provide an update and offer support. Based on a review of her February 8, 2021 management notes, in addition to e-mail correspondence between Lambert and AYS staff, it is undisputed Lambert requested a follow up in-person meeting with them shortly after informing them Fahey had been placed on administrative leave. In an e-mail to Wilson, Stackhouse, and Lombardi dated February 5, 2021, titled *Check-in-Monday February 8*, Lambert wrote in part, *"Hey guys, appreciate all of you making time for a conversation Monday morning. If any of you needs anything or would like to talk, please don't hesitate to call. Anytime. My best to you. See you Monday at 9:00."*
41. Based on statements from Lambert and a review of her February 8, 2021¹³ handwritten management notes taken shortly after the meeting with AYS staff, it is evident Lambert offered assistance to staff and was aware they were upset and angry over the Town's decision to investigate Fahey. She wrote in part, *"Short meeting. Informed of investigation. Offered any supports they may need. No immediate operational concerns. Acknowledged this is a difficult time for everyone. Invited comments. Tony extremely angry. Says Jess and I showed up under false pretenses asking for a tour when we were really there to walk Bill out. Jackie quite sad. Glenn asked about the next steps/process. Said I would provide updates whenever I had that to offer them. Asked how I could be helpful. Glen said, '[t]hey have work to do for the kids. Let them do their work.' Stated I'd like to meet with them occasionally if that would be ok. Offered additional hand if they needed that. No response.*

¹³ Lambert's management notes for February 8, 2021 cite two dates February 5 and February 8. She initially indicated she did not know which date her notes referenced. She further stated she did not immediately return to her office on February 8 to write the notes corresponding to that meeting with AYS staff. Lambert did not provide management notes for the February 5, 2021 meeting with AYS staff.

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Neal asked how long this would take. Said I did not know. Expressed my concern for the kids. Will be pressure on them all to ensure programming continues despite. Glenn said, '[i]t's all about the kids' Sat in silence in case anyone needed to talk. Ended meeting. Thanked them.'

42. Lambert stated, shortly after informing AYS staff Fahey had been placed on leave, she regularly checked in with Wilson to ask if he needed any help or support. From review of approximately 34 e-mails between Lambert and Wilson from February 5 through May 10, 2021, it is undisputed Lambert and Wilson communicated regularly with respect to administrative issues, program needs, annual reports, payroll, AYS seasonal staff compensation, donations, and hosting various events. In her e-mail to Wilson on February 9, 2021, Lambert wrote, "[j]ust checking in Glenn. Know I'm thinking about you and the team. Here if you need anything." In her March 8, 2021 e-mail to Wilson, she wrote in part, "[h]ow's everything going?" Lambert indicated Wilson did respond to her e-mails but that response was delayed on several occasions. Wilson readily acknowledged he was extremely busy during this time frame. By all witness accounts, subsequent to Lambert's meeting with AYS staff on February 5 and February 8, 2021, Lambert did not meet with AYS staff Wilson, Callahan, Lombardi or Stackhouse as a team until May 12, 2021.

b) May 12-13 2021 Allegations against Lambert and Porter

43. On or about May 12, 2021, Lambert and Porter met with AYS team members Wilson, Callahan, Stackhouse, Lombardi, and Stackhouse to inform them Fahey's employment with the Town had been terminated. In Lambert's May 11, 2021 e-mail to Wilson sent as "high importance," she wrote in part. *"I hope this note finds you well. I'll be sending out a meeting invitation to the team for tomorrow morning 9:00 a.m. I appreciate you ensuring all clear their schedules for this meeting."*
44. In recalling the meeting: Stackhouse, Callahan, Lombardi, and Wilson corroborated Lambert told them "Billy had been fired." They further corroborated Lambert stated, "[m]y [REDACTED] just died a few weeks ago, so I know what you're going through. Just remember you work for the Town, not Bill—remember who signs your paychecks." Lombardi stated, "I was frustrated and upset. I had gone above and beyond to do my job. I had worked so closely with Bill. I was told not to say anything about it." Callahan stated, "[w]e were all pretty upset—all close to crying. Neither she nor Porter could tell us why Billy was fired. I remember one of them saying, '[i]f you knew you would agree with why he was removed.' Both Porter and Lambert told us to be quiet about it. It made me feel like if I said anything, I would get in trouble. We were asking questions about what was next. Porter was generally quiet during the meeting. Lambert was implying we were not team players and that we didn't collaborate with other people within the Town/Division." When pressed during a

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subsequent phone interview with this investigator to describe the specific language Lambert used to announce Fahey's dismissal, Callahan stated, "Lambert told us Billy was fired and we needed to remember who signs our paychecks. We shouldn't take our jobs personally." It is noted Callahan first complained about Lambert and Porter's commentary on August 16, 2021 while addressing the Select Board. He stated, *"[w]hen were informed by Billy's firing by Jemma Lambert Community Services Director and Jess Porter Human Resources Director we were told to remain silent about our opinions, told to remember who signs our paychecks, and encouraged not to take our jobs personally."* He ended his commentary to Board stating, *"I hope that me speaking here tonight will encourage others to speak up, stand up to bullies and fight for who they believe in."*

45. In recalling the meeting with Lambert and Porter, Wilson stated, "[t]hey took us all into the yoga room. Lambert told us Billy had been fired. We asked what the plan was for the position. They asked us how we were feeling. I felt like my mentor had been killed. Jackie was near tears. I'm more reserved. Staff were livid and they got emotional. Lambert alluded to using the Youth Center for other things. Tony [Lombardi] said no—this is a Youth Center. Jemma stated, 'remember who signs your paychecks.'"
46. Stackhouse stated, "Lambert told us Bill had been terminated or fired—don't remember the exact words. The meeting escalated a little bit. She was talking about us having a 'we vs. them' mentality. It wasn't true. Wilson pushed back. I do recall Lambert saying, 'be happy you have a job.' It was off-putting and odd. Lambert told us to remember who signs our paychecks. We work for the Town and not Bill." I found it threatening. It gave me the inclination I couldn't speak up for myself because I was afraid I would be terminated. I didn't trust Human Resources because HR protects the Town and not me."
47. When questioned with respect to Lambert's commentary, Callahan clearly recalled Lambert telling them, "'[y]ou need to remember who signs your paychecks.'" He added, "[a]nd in the same intimidating manner she said to us '[d]on't take your jobs personally.' They kept saying we were a tight knit group. She was upset with our department—she didn't like Bill. She and others thought we weren't team players."
48. When pressed to recall the specifics of the comment "don't take your jobs personally," Wilson wrote he *"wasn't 100% sure which one made the statement but Jemma was the person who was more heated during the meeting and because of that he thinks it may have been Jemma not Jess."* This investigator notes all complainants corroborated they found Lambert's statements during the May 2021 meeting unprofessional and intimidating, indicating her commentary contributed to "the toxic work environment" they were experiencing. Callahan stated, "Porter said nothing after Jemma made those statements. How can an HR director remain silent for that?"

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49. When Porter was questioned with respect to Lambert's commentary during the meeting, including Lambert's statement "you work for the Town, not Bill—remember who signs your paychecks," Porter replied, "I cringed inside when I heard her say that. I was quiet. It put the staff on eggshells." She recalled Lambert "led the commentary during the meeting." She stated, "Lambert told staff Fahey had been fired. I would not have used the term 'fired' in speaking with staff. I always say the individual no longer works for the Town. Lambert's decision to use those terms in the meeting with staff was overly harsh. She knew how connected they were to Fahey." When asked why she didn't say anything during the meeting in response to hearing Lambert's commentary, Porter stated, "It wasn't appropriate to criticize a colleague in the presence of AYS staff."
50. *When asked to detail his response to Lambert's comments, Lombardi wrote in part, "To me, this was intimidation. When we questioned what was happening and how things were going to move forward, those inquiries were not only dismissed, but they were countered by reminding us of who was in charge of the situation. It cut us off from any chance to utilize the town leadership as a resource moving forward with regards to this situation or anything that may have come up in the future. In my time of need, the supervisor for the Youth Services department and the head of Human Resources made a stance that my opinion wasn't valued and that I better mind my thoughts and words and only worry about the money that I made. The comment about not taking our jobs too personally was one of the most painful statements to hear, because it solidified the thought that Jemma and Jess (and Flanagan) had no idea what our department did? Or, if they did, had no desire in that modus operandi continuing. The work was and will continue to be deeply personal for me. In the capacity of youth development, it is quite important to bring yourself into the work. If you want to build relationships with staff, young people, and a community, you must want the absolute best from every little thing you do. It is how you model for others to find their way. When you show that you care about something – anything – that is when you open the door for others, especially young people, to look inside themselves to find what it is they care about. And when they see you working for something that you care so much about, it gives them permission to work hard for what they care about.*
51. Lombardi added, "It is these statements that led the full-time staff to feel appropriately cautious and distrustful in our dealings with Jemma and Jess. While they were technically tasked at leading the department through this storm, these comments sent clear messages that we should be quiet and not ask any questions, never mind request further support. As we struggled to do the important work of youth development, our inability to ask questions and get support from anyone outside of AYS took a great toll on our mental, physical, and emotional abilities."

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52. While witnesses Lombardi and Callahan corroborated Lambert had told them “not to take their jobs personally” during the meeting, Porter could not recall Lambert’s specific commentary. She stated, “[s]he could have said it. I know I did not say that during the meeting.” When questioned with respect to this allegation, Lambert stated, “I did not make that statement. I have no idea what they’re talking about. The first I heard about it during Callahan’s comments at the August 16, 2021 Select Board meeting.”
53. Lambert readily acknowledged she was aware the staff were going to experience a significant loss upon learning of Fahey’s dismissal. She stated, “I did inform them of my [REDACTED] passing. I was trying to connect with them and acknowledge that Bill’s dismissal is a loss.” She added, “[t]here was nothing wrong with me reminding them to remember who signs their paychecks. We needed to remind them who they work for. They hated government and they hated Andrew [Flanagan]. Is it noted Lambert repeatedly stated she never said, “you need to remember who signs your paychecks”—rather she indicated she used the word “we” in her commentary. When asked if she would have done anything differently during that meeting or in the use of her words, Lambert stated, “I don’t know how to answer that question. It was a difficult time for me. AYS was extremely difficult to work with. I did not create a hostile or toxic work environment.”
54. Within her management notes dated May 13, 2021¹⁴ regarding the meeting, Lambert wrote in part, *“[i]nformed group that Bill had been dismissed. Very quiet around the table. Acknowledged this is a difficult time and a big loss. Shared that I just lost my [REDACTED] so I do understand re: suffering a big loss. Asked how they are doing. All acknowledged how hard it is. Offered EAP services—free, confidential and an opportunity to talk to someone. I spoke about moving forward as a team. Will be some changes to come. Look to you to work more collaboratively with the Department. Neal [Callahan], Tony [Lombardi] strongly deny that they don’t work with others. “We work with everyone. I spoke about better use of facility during low use times. Glenn [Wilson], Neal [Callahan], Tony [Lombardi] strongly object. Neal [Wilson] asked what would that look like? Said not at all sure yet but we will work together. We are all one team, all one Department, we’re all on the same team here. We are all Town employees, the Town signs our checks. Questions about AYS programming. Assured they do a great job w/their programming. Here to support those. What operational concerns/issues do we need to address? Jess w/ several procedural items.”*
55. When asked to provide context with respect to her specific commentary including stating to AYS staff they should remember who signs their paychecks, Lambert requested this investigator quote her in full. In an e-mail to this investigator, Lambert wrote, *“The central theme of my comments at this meeting were focused on moving forward as a team and*

¹⁴ Lambert’s notes are dated May 13. However, based on a review of e-mail correspondence between Porter, Lambert and AYS staff, it is evident Porter and Lambert met with the staff regarding Fahey’s termination on May 12, 2021.

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Department for the benefit of Andover residents. I spoke with the staff about some positive changes to come, whether that be through new/enhanced programming, volunteerism, communications, special events, sharing of resources, etc. When asked for specifics I mentioned better utilization of the CYC during low use times and shared with the group that I frequently receive complaints from community members who feel they should have access to the facility when kids are in school. This elicited strong objections from the group. I responded by reminding the staff that we are all one team, one Department, that we are all Town employees as evidenced by who signs our checks and to that end, we are all part of a much larger organization with resources to share. Contextualizing the work of AYS as a Division contributing to the larger efforts of the Department and Town as a whole had been a continued conversation with former Director Fahey, all other Divisions of the Department and a concept essential to the success of the Department.”

56. On the early morning of May 13, 2021, Porter indicated she met briefly with staff shortly after Fahey arrived to collect his belongings from the CYC building. After Fahey had left the CYC building, Porter met briefly with AYS staff. She stated she wanted to give them support and direction with respect to their subsequent communications with Fahey and social media. She stated, “As with any termination, I advised them not to discuss the specifics of the matter on social media. I wanted to make sure they had a point person to refer questions to.”
57. In her May 13, 2021 e-mail to Stackhouse, Wilson, Callahan and Lombardi (cc to Lambert), at 9:56 a.m. Porter wrote in part: *“In follow up to our discussion this morning, I want to re-iterate the following directives and also make sure Jemma is in the loop:*
 - 1) No items are to be removed from AYS and delivered to Bill. Any additional items that belong to him, if any, will have pick up or drop off arranged.*
 - 2) There should be absolutely no discussion of Bill’s departure on AYS or Town affiliated Facebook pages by any AYS Staff member*
 - 3) With regard to Tony’s questions about inquiries of Bill’s status, for anyone who asks where Bill is (which they probably will), you can state he no longer works for AYS and if they have questions feel free to refer them to me or Jemma. You are all dealing with a lot of emotions as is, we don’t want you to feel further discomfort.*
 - 4) Glenn, you’ll get me everyone’s work schedules for the week, which I know vary greatly based on appointments and programs. Again, any extra pair of hands to help that’s needed please ask!”*
58. In citing additional examples of a “toxic work environment,” witnesses Stackhouse, Callahan, Wilson and Lombardi corroborated on May 13, 2021, Porter engaged in inappropriate conduct by “going into Fahey’s office to box up his belongings.” Porter

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indicated the details of how Fahey would retrieve his belongings were arranged in conjunction with the Town's Labor Counsel. Porter wrote, *"I was present the day Mr. Fahey arrived at AYS to gather his belongings, which I, along with his staff, personally packed up for him. Through our respective attorneys, we chose a time that would precede the arrival of staff knowing that it would be difficult for them to have to witness their long-time supervisor packing his belongings. The staff was informed by someone other than the Town of Mr. Fahey's date and time of arrival, and all reported to work earlier than usual. Mr. Fahey also chose to allow a news reporter to photograph the entire event which resulted in the subsequent story reported by the newspapers. At no point did I or anyone from the Town notify the newspaper of this pre-arranged pick-up time, as we wanted to preserve Mr. Fahey's rights and privacy relative to this matter. I saw first-hand how upset the staff were and offered my support and also my apologies for them having to be involved with what I know was a very difficult morning for them."*¹⁵ Porter indicated she was completely unaware a reporter would be present, and was "frustrated and shocked" upon observing the reporter show up at the CYC.

59. All complainants corroborated they were highly emotional and upset at observing Porter box up Fahey's belongings. Wilson described the incident as "horrifying." He stated, "[i]t was horrifying watching her box up Bill's things. He created the whole program." Stackhouse, Lombardi, Wilson and Callahan indicated "they all helped Porter" box up Fahey's belonging[s] in and around his former office. Porter stated, "[a]ll of them got involved—I didn't ask for help." Porter added, "I met briefly with staff to apologize for the spectacle I believe Fahey had caused. Lambert was not present at that time. I met with staff shortly after."

c) May 2021 through August 2021: Allegations against Flanagan & Porter

60. Multiple witnesses, including Wilson and Stackhouse further alleged on or about May 12, 2021 through August 2021, Human Resource Director Jessica Porter inappropriately "took over" Fahey's former office at the CYC building and began regularly working out of his office. By all accounts, Porter did not formally meet with AYS staff while she was there.
61. Stackhouse stated, "I didn't trust her. She was there to support the Town, not us. I never met with her while she was there. It was odd that she was working out of Bill's office." Wilson stated, "To have the person who is directly responsible for firing Bill work out of Bill's office upset me. She had no Youth Services experience and no way of helping us. Everything was so traumatic. I was not happy with Porter being there to babysit us."

¹⁵ It is noted the Eagle Tribune included a photo of AYS staff hugging Fahey taken on or about May 13, 2021 in an August 21, 2021 article announcing AYS staff had resigned their positions.

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62. Wilson further alleged he believed Flanagan directed her to be there “to watch staff.” He stated, “I told Porter that her presence in not helping us in any way.” I also asked Lambert what she could do to get Porter out of the building/office. I believed she was there as an agent for the Town. She had let Tony [Lombardi] give her a personal tour. She was a part of firing Bill after that. While she was there, she never asked to meet with anybody. I don’t think she felt welcome there. She didn’t have anything to offer us. She then started asking me for my [and staff’s] schedules. I asked Lambert why she was asking for that since she was not my boss. Lambert said ‘[j]ust keep responding, she will grow tired of it.’ Wilson added, “The one thing I asked of Lambert is to get Porter out of Bill’s office. She never did that.” Wilson stated, “The message I got from Porter being there was she was there to watch the group. We assumed her presence there in addition to her requests for our schedules was a part of Flanagan and Town’s ‘tightening the reins’ on us.” Wilson acknowledged: “[w]e [AYS staff] needed to be autonomous from the Division of Community Services. Autonomous from Jemma Lambert. I remember once she asked me what we did as a program. She had no idea how we operated.”
63. In describing his response to observing Porter work out of Fahey’s former office, Callahan stated: “It was intimidating and it also triggered a lot of emotions. We had worked with Bill for decades. When you work with someone and they’re gone with no explanation as to why it causes anxiety. Now we had a total stranger who had never been to the AYS building before sitting in his office. I felt like I was walking on eggshells. It felt like she was there to report back to management [the Town] about us.
64. Based on corroborated statements from Flanagan and Porter, and from a review of multiple e-mails between Porter, Wilson and AYS staff, Porter e-mailed AYS staff to inform them she would be spending time working from the CYC building for a few hours each day and would be requesting the staff schedules. In her May 12, 2021 e-mail to Wilson, Stackhouse, Callahan and Lombardi she wrote in part, “As I [sic] reminder my cell is—Feel free to call anytime. You are also welcome to stop by the HR offices on the 3rd floor. As discussed, my plan is to spend a few hours working from here each day to offer support and anything else you may need. While I do not know much about running programs, I’m also happy to help pitch in if an extra pair of hands is needed to supervise a program or help any youth. Please do not hesitate to reach out.”
65. Porter stated: “It was my idea to work out of the CYC building—not Flanagan’s. We had no idea what was going on down there. They had operated for years without much oversight from the Town.” Porter recalled multiple discussions with Lambert and Flanagan concerning the need for management level support at the CYC subsequent to Fahey’s termination. She stated, “We recognized the AYS staff had experienced a loss, they were down a staff person

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and there needed to be support offered to them and a presence in the building. The goal was simply to offer them support and create some structure for them. There was a lot going on at the time. We weren't looking to change anything programmatically. My door was always open to them. While I didn't meet with the staff as a team, I did meet with Wilson a couple times while I was there. Wilson made it crystal clear that he didn't want me in the CYC building. He told me staff were uncomfortable by me being there. I told him I understood it was a change, but I would be there."

66. Porter added: "I sent multiple calendar invites to Lambert because I assumed that we would share the responsibility of being down there. While Lambert accepted all of my calendar invites, I never received any invites from her that she would down there. It didn't make sense for both of us to be there together—my thought was we would stagger our presence at the CYC. To my knowledge, she did not work out of the CYC building during that time."
67. In her May 12, 2021 e-mail to Porter, Lambert wrote, *"I've tentatively scheduled myself at AYS for a few hours each day before or after you."* Porter stated, "I never got calendar invites from her for these scheduled times. She did not share that responsibility with me."
68. Based on a review of approximately 27 e-mails sent by Porter to Wilson (including two e-mails to AYS staff) from May 12, 2021 through August 14, 2021, it is undisputed Porter included multiple offers to assist Wilson and AYS staff and check in on how staff were doing. In her May 14, 2021 e-mail to staff, she wrote in part, *"Again, any extra pair of hands or help that's needed please ask!"* In her July 6, 2021 e-mail to Wilson, she wrote in part, *"[a] few of you have very, very long days- what can we do to help?"* In another e-mail to Wilson dated July 6, 2021, she wrote, *"[a]t least they are long days that are fun! I just worry about staff burn out. Let me know if we can help or support in any way."*
69. From a review of her management notes in addition to approximately 27 e-mails between Lambert and Wilson from February 5 through August 19, 2021, it is undisputed Lambert checked in with Wilson to ask how he, and staff were doing. On February 9, 2021, she wrote, *"Just checking in Glenn. Know I'm thinking about you and your team. Here if you need anything."* On March 15 and May 21, 2021 she wrote, *"How's everything going?"* Lambert stated, *"Flanagan wanted no interruption of programming for kids. Parents have enormous expectations for the programs- we were right in the middle of summer programming. I asked AYS staff what their operational needs were. Staff told me there were none—it was abundantly clear programs were running without any issues. My goal was to stay out of their way. Personally, I was most concerned about how they were doing. They wouldn't take my offers of support."*
70. From a review of her management notes from the aforementioned time frame, Lambert wrote that she offered EAP and counseling to Wilson and AYS staff during every in-person

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meeting she had with them. It is noted Peznola also indicated she offered Wilson and AYS staff EAP services during multiple meetings to discuss Union issues. It is further undisputed Wilson was offered supportive services during his meeting with Flanagan, Peznola and Lambert on August 5, 2021. In her management notes dated August 5, 2021, Peznola wrote in part: *"The Town Manager then offered to provide counseling resources for the staff if they wanted it. The meeting adjourned and Glenn and I went back to my office. Glenn stated that he was prepared to submit a business plan and had already been working on it, but did not think the staff would be interested in town sponsored counseling."*

71. Lambert indicated on multiple occasions from February through August, 2021, Wilson delayed in responding to several of her requests for information. On March 16, 2021, Lambert did not receive a response from Wilson's inquiry regarding the upcoming election and AYS space. In Lambert's e-mail to him on March 16, 2021, she wrote, *"I need to hear from you on this matter. Third request."* In her June 22, 2021 e-mail to Wilson titled *"few things,"* Lambert wrote in part, *"[o]n your reqs: what are you purchasing re: fitness equipment?" Did you consult with AFD [Andover Fire Department] on the AED [Automated External Defibrillator]? Do you have one in the facility. I need to ask you to work a little harder on making time for us to sit in conversation. Did not hear back from you about meeting yesterday."* In her August 9, 2021 e-mail to Wilson with a request for vacation information, Lambert indicated Wilson did not reply to her e-mail, but later provided her the information during her meeting with him on August 18, 2021.
72. In describing her discussions with Flanagan and Porter regarding management presence at the CYC subsequent to Fahey's termination on May 10, 2021, Lambert indicated she had multiple discussions with Flanagan and Porter to discuss the next steps. She stated, *"Porter was down at AYS for two-three hours a day. I believe Flanagan wanted someone there. Here we were at a place where their Director had been fired under serious circumstances. People were holding signs and picketing. I think we needed someone there to offer some guidance and some oversight."*
73. When asked why she did not work with Porter to coordinate their schedules to set regular hours for her to also work from the CYC building, she stated, *"I was too busy. I didn't have time to spend a half a day each day down there. I told Flanagan I didn't feel comfortable doing that because I have to be there supervising them in the long run."* Lambert indicated she informed Flanagan that she believed her presence at the CYC would *"piss people off."* She stated, *"I told him [Flanagan] I had to lead the team moving forward. I have to be able to work effectively with them. I didn't think it was wise for me to be there, and I was too busy."* Lambert added: *"They demanded autonomy from the Town—they wanted to be left alone. They did great jobs. I knew they were in a crisis because Bill wasn't there. They didn't want help or counseling. It was offered to them multiple times."*

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74. When asked if she had ever addressed similar challenges in assisting department personnel subsequent to an investigation; Lambert described her previous involvement with a separate Town Division in response to a “serious” internal investigation involving a former Town employee. Lambert indicated she, “spent a good deal of time [daily] working and meeting with personnel within the Department” because, “operationally, the place was a disaster.” Lambert stated she hired an outside facilitator/mediator to work with the team. Lambert and Flanagan corroborated Lambert’s efforts within that Department were “highly successful.” Lambert stated she did not believe she must focus the same amount of time with the AYS staff, as she had with the other Department personnel, because “the AYS program was operationally sound.”
75. Within her management notes dated May 19, 2021, Lambert detailed a conversation with Wilson where he informed her that he did not want Porter to spend time at the CYC. Lambert wrote in relevant part: *“Met Glen outside CYC. Walked the track in conversation. Asked about the team. ‘All doing ok under the circumstances. Not an easy time. Asked what I could do to help. Glenn asked that Jess stop spending time at the CYC said everyone is unhappy about it. I told Glenn that that was not in my realm of control but that she is there to both get to know you and to help if she can. Glenn said, ‘Don’t need her help.’ I did tell Glenn I would make his request known. Glenn said they just want to be left alone to do the work. They are busy planning summer. I told him that I don’t want to get in his way—would like to check in periodically. He said ok. We’ll meet every month or so as a team or some collection of the team. Maybe next week ok?”*
76. In her June 22, 2021 e-mail to Porter (cc to Flanagan, Lindstrom and Lawlor), Lambert wrote in part: *“Checked in with him [Wilson] about his team, their healing process, etc. He declined an invitation to have someone work with them on their healing. He asked me why you’re asking him so many questions. Wanted to be reassured he reports to me. I reassured him that yes, he does report to me and that he needs to continue to respond to any questions you have. He stated that he ‘knew why he was being pushed and where it was coming from.’ I disabused him of that notion. Told him this was all about you needing to get a lay of the land. I reminded him that you’re new here and want and need to understand how everything operates. He mentioned you were asking for their schedules. I said he should be prepared to align his operations with the rest of the union in terms of formally requesting OT, vacation, sick, etc. I reminded him this is a matter of equity/fairness with all the other Town employees in the union. We’ll see where he sends that information. He did state that while ‘Bill is still in their lives, he’s just not in their lives as a part of AYS.’ Important info.”*
77. Andover Select Board Chair Chris Huntress readily recalled a meeting with Wilson on or about June, 2021. He stated, “Glenn and I served together on the Cormier Youth Center Building Committee. I liked Glenn—good guy. I called him after Fahey had been terminated.

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I wanted to offer support. We met at AYS and sat at a table in the back patio. I knew it was a stressful time. I asked him what he needed. He told me "What we want Chris, is autonomy. We don't want to report to the Town Manager or to Jemma Lambert. We want to report directly to the Select Board. I told him he had to report to somebody." He then stated, "Well if I can't be autonomous, could AYS be put under the School Department?" Huntress indicated he told Wilson he couldn't make any promises but did reach out to begin a conversation with the School Superintendent about the possibility and offer a tour of AYS. I told Wilson my door is always open to him. Huntress later recalled he received a call from Wilson who was upset about Lambert's request to review all AYS printed materials. Huntress stated, "I told Wilson, Lambert was not targeting him, and that I believed her request was reasonable." This investigator notes Huntress readily recalled a prior 2017 meeting with former AYS Director Fahey where Fahey informed him that he wanted distance from the Town and Flanagan. Huntress stated, "I told Fahey I would be running for the Board and wanted to be a conduit, and build a bridge between AYS and the Town. Fahey told me he didn't want or need a bridge. He wanted Flanagan fired."

78. Wilson readily recalled his conversations with Huntress. He indicated he did not pursue discussions with Huntress about moving AYS to the School Department in part, because he believed "the process would take too long." Wilson further indicated he asked Huntress intervene to stop Porter from working in the CYC building. Wilson stated, "Porter stopped showing up to the building after I spoke to Huntress about it. Chris got her out." Wilson readily admitted he was so upset by observing Porter work out of Fahey's former office at the CYC that he himself "moved into Bill's office to work" to prevent Porter from working there. It is noted, during a tour of the CYC building led by, AYS part time staff Patrick Hogan, Hogan stated to this investigator, "This was Bill's office. That is Glenn's desk. He moved into the office because he was upset Human Resources was working there."
79. In describing his knowledge of Porter's presence at the CYC building including his efforts to provide support and oversight to AYS staff subsequent to Fahey's termination, Town Manager Flanagan indicated he had multiple conversations with Lambert and Porter to discuss the matter. Flanagan stated: "My expectation was to ensure AYS programming continued and was moving forward. I didn't want any changes to programming. I knew from conversations with Lambert and Porter, staff were very upset upon learning of Fahey's termination. There were a range of emotions. I didn't want them over-supervised. I wanted someone to mind the shop—ensure programs were continuing. Porter offered to help. I assumed both Lambert and Porter would coordinate their efforts to ensure their presence in the CYC building. Lambert told me she didn't want to be the hammer. She still had to supervise them moving forward. I don't think she got deep into the programming over at AYS. Everything the Town did with AYS was met with resistance in the past." Flanagan

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readily acknowledged “it was a busy time.” He stated, “After Fahey’s termination, I was dealing with numerous media requests, FOIA requests, public commentary, and people coming from all sides to protest his termination.”

80. In describing his management style, he indicated he expects his Department Heads to manage their divisions, including establishing regular meetings with program staff and directors. Flanagan stated he does not have regularly scheduled one-on-one meetings with his direct reports, but meets with all Departments Heads regularly and informally. Flanagan indicated he does not regularly visit with or meet formally with non-supervisory Town Department personnel in the various divisions—rather he relies on his Department heads to manage their respective teams. He stated he had only scheduled one meeting with Wilson on August 5, 2021, and had never formally met with AYS staff including Stackhouse, Callahan, and Lombardi. Flanagan indicated he had only been to the CYC building “twice” during his tenure. He further stated he had attended the grand opening of the CYC in 2016; however, based a prior e-mail correspondence he became aware of, it was clear to him “that Fahey and others” did not want him to attend.
81. During questioning, Lambert described her management style including challenges in managing former AYS Director Fahey. She stated: “I meet people where they are at. Everyone has different needs. I feel it’s my job to provide what all employees want, which is autonomy. I provide them with the tools to solve problems, and support them. I give them the space to do that. I’m not a micromanager. I have a deep understanding of what motivates people. From my observation, AYS made a mistake. It became about a person and not the work.” Lambert indicated during Fahey’s tenure as Director, he controlled access to his staff. She stated, “Whenever I was in a room with him and his staff, he would be the only one speaking. He would talk over me. Bill and his staff had a very high distrust of government—mainly focused at Flanagan. Lambert added, “It was not my job to manage that division. I was there to support the Leader and the team. I tried hard to build trust with Bill one pebble at a time.” From 2019 through his dismissal, Lambert indicated she met regularly with Fahey but acknowledged she did not regularly meet with AYS staff. She stated, “At the end of the day, I should’ve been nose deep into the AYS—we were miles away of having that full trust. I never got that trust from Bill. My biggest obstacle was that Bill insisted on autonomy- he hated government. He didn’t want management in the building. Staff did not want me down there. They didn’t want to be managed.”
82. Wilson additionally complained he believed Flanagan, Porter and Lambert began to “unfairly scrutinize his work” subsequent to Fahey’s dismissal. He stated, “Porter started e-mailing me two or three times a day. She was requesting the schedules of the staff. I thought, ‘who am I answering to?’” Wilson further alleged subsequent to May 12, 2021 through August 19, 2021, Lambert unfairly required him to submit to her AYS program

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information for her prior approval. He expressed he became upset when Lambert requested he provide her information about emblems for sports programs AYS was running. He stated, "Now we have to run every t-shirt logo, and print by her and the Town?"

83. Multiple witnesses including Porter, Lambert and Flanagan corroborated: prior to Fahey's dismissal, the AYS had operated "somewhat independently" of the Town. They further stated they believed former AYS Director Fahey and AYS staff "wanted to remain autonomous from the Town with respect to the development of delivery of program services. Within a news article, Flanagan indicated Lambert had "a hands off" approach to the management of the Youth Services Program.
84. Based on a review of Porter's e-mails to Wilson and Lambert, and from corroborated statements from Porter and Wilson, it is undisputed from May 13 through August, 2021, Porter regularly requested the weekly schedules of AYS full time staff. It is noted she CC'd Lambert on all of her e-mails to Wilson. Porter stated: "AYS staff had never previously provided their work schedules to the Town. They never put in for sick or vacation time. They were working a crazy amount of hours. I believed it would be a simple thing to do to help them—[to] ensure overtime was being paid properly. I wanted to provide some structure. I wanted to provide some oversight and ensure the proper use of time and overtime. I wanted to help them. They didn't want the help." When asked why Porter had assumed the responsibility of requesting weekly schedules of AYS staff from Wilson and not her, Lambert stated: "I don't know why she was asking for their schedules. She's a Department Head with the Town. She can do what she wants. She took the opportunity to find out who is coming and going and when. I did not previously request their schedules."
85. From a review of e-mail correspondence between Lambert and Wilson from February through August of 2021, it is undisputed Lambert regularly e-mailed Wilson with various requests to for information. In addition to requesting Wilson provide her with the "annual report," regular payroll, requisition details, and other unrelated items; Lambert requested Wilson provide her with seasonal hire and donation information including requesting he keep an "eye on the number of hours worked for part time employees." On March 23, 2021, Lambert e-mailed Wilson with a reminder that staff cannot exceed 18 hours per week. She wrote in part, "We don't want to run into any labor issues so appreciate you keeping an eye on the hours." On August 2, 2021, Lambert requested Wilson remove a picture of Fahey posted on the Andover Youth Services site.
86. When asked if she had singled Wilson out and unfairly forced him to provide her with program and budget information, Lambert wrote: "On July 14, 2021 I sent a note to all Division Directors and Glenn Wilson regarding, as noted in the subject line, "publications, apparel, communications." The exact wording of that email was as follows: Hey guys

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Going forward I ask each of you to be sure to seek my approval of your publications, large-scale communications, apparel designs, etc. before orders are placed or publications released. It's time for us to more closely align our various communication vehicles. When things quiet down this fall we'll get together for a Leadership Team meeting. This will be on our agenda. I appreciate your understanding. Any questions please ask." Lambert further wrote, *"My expectations of Glenn with regard to communications, decision-making, etc. did not differ from my expectations of any other Division in the Department."*

87. On August 3, 2021, in her e-mail to Wilson (CC to Porter and Andover Youth Foundation Costagliola) Lambert wrote in part: *"It has come to my attention that there are a number of persons performing services for AYS who: are not in the Town personnel and payroll system; or who are in the system but are performing work for which they are paid by other sources beyond those hours reported to the Town via weekly time sheets. I need you to provide me the following by 5:00 PM tomorrow: A list of any/all persons who are performing AYS related duties on a full-time, part-time or seasonal/temporary basis Employee status (i.e. full-time, part-time or seasonal/temporary), Number of hours she/he is working each week, [a] description of the work she/he is performing, Identification of the funding source for compensating these persons. If multiple (e.g., Town funds and foundation funds) please list. From this point forward, Glenn, no one is to be performing any AYS-related work unless they are hired through the Town of Andover's standard process and approved by me."*
88. On August 9, 2021, Lambert e-mailed Wilson to ask when AYS closes for vacation. On August 16, 2021, Lambert e-mailed Wilson to ask about his program plans for the fall. She wrote in part, *"[a]ppreciate a detailed list and start dates, etc. How's enrollment looking?"* In her August 18, 2021 e-mail to Wilson, she wrote in part, *"We have heard from a family participating in programs that, excepting a few sports activities, you are not offering fall programming. I realize you are busy but we need to sit down today. Full stop. I need a full accounting of what activities you are offering this fall, what's changed and why. Please let me know what works Glenn. I will clear my schedule."*
89. Based on a review of multiple e-mails between Lambert and Porter from May 12 through August 19, 2021, Porter requested Lambert obtain AYS budgetary information along with other information. In her May 13, 2021 e-mail to Lambert, Porter wrote in part: *"So if im reading this right, its May 13th and they are 95% spent already? Jemma, I do think it would be helpful for us to sit with Glenn and get a good handle on making sure all of the needs, etc. are met and that we don't overspend. Not sure if Bill typically did this with him or to what level of involvement Glenn has had with managing the budget if any."* Lambert replied, *"The fiscal year ends June 30th. I've not yet looked at the document but I assume much is encumbered but not necessarily spent...I'll jump into it now."* In her subsequent e-mail to Porter Lambert wrote, *"Feel free to hammer away at him if you'd like. We've not had*

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any issues with over spending in my Department since I've been here. They always have the Foundation to fall back on."

90. It is noted, shortly after AYS staff resigned on August 19, 2021, Andover's Chief Information Officer Paul J. Puzzanghera sent an e-mail to Porter and Lambert indicating the Town neither has nor, had access to critical information technology at the AYS. He wrote, *"[j]ust to remind you as you are attempting to transition the AYS team that we have limited access to any of their software, websites, passwords, etc. They have always been highly autonomous. Whatever you can do to gain control of these assets would be helpful. At a minimum we need a way to disable them."*
91. Witnesses Stackhouse, Callahan, Wilson, and Lombardi further alleged they "were kept in the dark and not consulted" with respect to Flanagan and Lambert's commentary regarding restructuring the AYS. By all accounts, witnesses Stackhouse, Callahan, Lombardi, and Wilson corroborated: Lambert vaguely referenced "changes were coming" to the structure of AYS during her meeting with the AYS team on or about May 12, 2021. All indicated they were distressed and confused by Lambert's commentary, because they were unclear about what was "coming." Wilson stated, "[s]he (and the Town) were always looking to open up the AYS to outside events and vendors. It was wrong." Stackhouse indicated Lambert's comments made her "feel anxious and unsure about what was going to change." She stated, "there was a vacuum of communication about what they wanted to do. We were never consulted about it or asked for our voices and opinions. No feedback about that was given to us." When asked to explain her commentary with respect to "changes coming at the AYS," Lambert stated she spoke about utilization of the facility during the day when students were not present. She further recalled staff were "mad" when she raised the topic during the May 2021 meeting with them. Lambert indicated she had received prior complaints from seniors citing they were refused entry and had no access to the building.
92. With respect to his plans to restructure AYS, Flanagan indicated based on the findings of Ryan's investigation, he wanted to ensure AYS services include a formal, and well-coordinated social work component. In his May 10, 2021 e-mail to members of the Select Board, Flanagan wrote in relevant part, *"First, I have decided that some functions of AYS must be restructured so that the provision of outreach services such as mental health and substance use counseling correlates to the model that is used by other municipalities and that ensures these services are delivered in a professional manner consistent with licensing standards. These services would be provided through a Human Services Division in the Community Services Department, under the supervision of a licensed, qualified employee. Youth Services would continue to be provided by AYS reporting to the Director of Community Services. I anticipate that this restructuring may affect some AYS positions, however, should not result in additional FTE's [full-time equivalent employees]."*

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93. Shortly after learning of Flanagan's plans to restructure AYS services, Callahan and Wilson corroborated they separately reached out to Select Board Chair Christian Huntress. In his e-mail to Select Board Chair Huntress dated August 11, 2021 (CC to Lombardi, and Stackhouse) Callahan wrote on behalf of AYS staff indicating they were upset they had not been consulted prior to learning of Flanagan's plans to restructure AYS. He wrote in relevant part: *"I am writing today on behalf of Tony, Jackie and myself to begin a dialogue regarding our current situation at AYS. We recently saw an e-mail correspondence from the Town Manager to the Select board informing you back on May 10 about Billy's firing. In that e-mail he talked about restructuring our department, including certain positions within our department and in that same May 10th e-mail he said '[w]e will begin the process of recruiting and selecting an Interim Director next week, and I will update you on the restructuring process.' Why has there been no progress in the last 7 months from the Town Manager and Select Board about the future of AYS and why have we as full-time AYS staff not been included in those discussions? Collectively, our current full-time staff have over 60 years of experience working with young people under the youth development model... Despite our continued success as a leading organization in youth development we have been left out of the conversation about what young people need. It's been this lack of decisive action, communication and transparency from the Select Board and the Town Management that causes us concern and anxiety about the future of our program."* In his August 12, 2021 e-mail reply to Callahan, Huntress wrote in part, *"Neal, thanks for reaching out. I appreciate the work that you, Tony, Jackie and Glenn do at the AYS on behalf of our kids. A lot has happened since May 10, including meetings with AYF and Glenn to discuss the path forward for AYS. I have asked the TM and staff to present an outline and schedule for the process to select an interim director for AYS at the SB meeting on Monday, August 19."*
94. When asked what the Town could have done better in assisting him and his team, Callahan stated, *"They could've treated us like humans. Communicate with us. Allow us to give feedback. Try to reach out to us and get our opinions about what the program needs."*
95. It is noted Wilson raised similar concerns with respect to Flanagan's plan to restructure AYS. In his August 12, 2021 e-mail to Huntress he wrote in relevant part, *"On Sunday, the Eagle-Tribune reported that big changes to the structure, operation and staffing were being planned. This was the first time anyone in the AYS had known about such changes which directly impact our full-time employees and provided the first information about any plans for implementing a Director."* Wilson stated, *"During the August 16, 2021 presentation, like everyone else I was feeling on edge. That meeting sealed my fate with AYS. Porter presenting PPT slides that outlined the role of the Interim Director. It was discourteous to me and abundantly clear that [there was] no room for me to get the Interim role."*

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96. With respect to involving Wilson in discussions regarding the future of AYS, Purchasing Agent and Union President Peznola and Flanagan corroborated they spoke about the matter on multiple occasions throughout May, June, and July of 2021. Peznola stated, "On or about May 19, 2021, I initially met with Flanagan to discuss Wilson's request for a 3.5% increase for doing the work of the former Director. Flanagan asked me to request Wilson provide him with a plan on his vision of how the program would operate moving forward. He wanted a meeting with Wilson to discuss a plan. In her timeline of events, dated May 19, 2021, Peznola wrote in part, *"In my conversation with Mr. Flanagan, he agreed to discuss with Glenn providing the stipend, but also wanted to talk about Glenn's plans for AYS. He asked me to set up a meeting. I called Glenn and updated him. He was not immediately open to the idea of meeting with Mr. Flanagan and wanted some time to think about it."* On May 21, 2021, Peznola wrote, *"I called Glenn to check in and he said he needed more time to think about it."* On May 24, 2021, Peznola wrote in part, *"I went to see Glenn at the AYS building and had a conversation with him outside at the picnic table. I asked him again about meeting with the Town Manager, and he stated to me that he needed "to check with the Andover Youth Foundation." I reminded him that he did not work for the Andover Youth Foundation, he works for the Town of Andover."* In her notes dated July 14, 2021, Peznola wrote in relevant part, *"Received an e-mail from Glenn asking for a follow-up request for the 3.5% stipend. I responded via e-mail that despite my attempts, he refused to meet with the Town Manger. He never responded to the e-mail."*
97. Wilson readily recalled he met with Peznola on multiple occasions to advocate for a raise. ¹⁶While he acknowledged Peznola told him Flanagan wanted to meet with him to discuss the future of AYS, he stated, "No-one asked me for a written plan." He admitted he was hesitant to meet with Flanagan and described a number of prior incidents he believed were examples of Flanagan's mistreatment of him. He stated, "He hasn't supported the AYS program operationally once, since it's foundation. I absolutely did not trust him."
98. In describing her response to learning Flanagan was making some changes to the structure of AYS, Stackhouse stated, "There was no prior communication or plan from the Town on what that meant—how we would move forward. I had questions because based on his May 10, 2021 e-mail to the Select Board. I thought my position and role as a licensed social worker might end up reporting to someone else. The Town did not have any prior conversations with us about next steps, including our input regarding who was going to be named Interim Director. I got the feeling they didn't think we were team players- they left us alone and out of the conversations. I put blood sweat and tears to working with kids every day. Flanagan and Lambert had no idea what we did every day. I'm still receiving e-

¹⁶ Wilson was provided a copy of Peznola's time-line and management notes during questioning by this investigator. He did not dispute any portion of Peznola's notes.

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mails from parents and kids telling me how bad the place is now. They have seniors checking kids in. They needed to work harder at understanding what we do and bringing the kid's voices to the table. The Town Manager created this Community Services Division—he added layers and bureaucracy—the voices of staff and kids were lost.”

99. Lombardi stated, “We were left in the dark. There was no conversation or communication from the Town or plan on how we were going to move forward. It was the Final Straw. I attended the August 16 meeting of the Board. I was prepared to speak. They gave a two-slide presentation on the Interim [Director] position. There was no mention of current staff as a part of their presentation. No mention of kids or parents. They used the word ‘Stakeholders.’ I believed we weren’t getting anywhere. They did not value our opinions. I can’t wrap my head around why Bill was fired. I feel he was targeted. This was all a plan to get us to leave. I didn’t want to leave here.” Callahan echoed Lombardi’s concerns, stating, “During the August 16, 2021 Select Board meeting, there was a presentation by HR that included two or three slides outlining the future of AYS. There was no mention of current staff, kids or parents. They included the word ‘Stakeholders.’ I thought we weren’t getting anywhere. They [Town management] didn’t value our opinions.
100. From a review of Porter’s presentation at the August 16, 2021 Select Board meeting, it is uncontested she presented three slides outlining the role of Interim Director, Interim Director qualifications, and the Selection Process. It is noted within her slide titled “*Selection Process*,” that the Town would establish an Interview Committee which she would facilitate. The Committee would include the Director of Community Services, a Youth Services Professional from another municipality, a representative from the Town Manager’s office, a representative from the Commission on Diversity Equity and Inclusion, and a representative from Andover Public Schools. In outlining the role of Interim Director, Porter wrote in part that the position would “*serve as a liaison to external stakeholders, community groups and appropriate agencies*.”
101. This investigator notes the Town’s website lists four basic goals for Andover Youth Services including “4) *Youth Involvement in Town Administrative Procedures*.” Part-time gaming coordinator Patrick Hogan stated, “No one had ever had conversations with me about the restructuring or future of AYS programming. To my knowledge, none of my co-workers had conversations with anyone from the Town about that prior to the August 16, 2021 Board meeting. The only conversations I’ve had with the Town of Andover started after the full time AYS staff had left on August 19, 2021. I did receive a call from Lambert on or about August 27 asking me to describe and explain my programs to her. She didn’t understand we

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were running multiple sessions of programs per day. It was clear that she had no concept of how much we did in a day.”¹⁷

102. When Flanagan was asked if he had consulted Andover youth or AYS staff in preparation for the August 16, 2021 Board presentation, he stated, “Not initially. However, the approach from beginning included both short-term and long-term planning. We were looking to select an Interim Director as quickly as possible and support the AYS staff and programming. Simultaneously we were making plans for our long-term approach to fill the Director position. That plan includes a Steering Committee made up of diverse group of individuals including parents, community members with experience with AYS and a member of the youth community.”

d) Allegations against Flanagan: Refusal to name Wilson as Interim AYS Director

103. All witnesses including Lombardi, Stackhouse, Callahan and Wilson corroborated Flanagan’s failure to appoint Wilson as Interim Director from February 5 through August 19, 2021 caused them considerable distress and contributed in part to their decisions to resign their positions with AYS. They further alleged as a result of working with no Interim Director, they were overburdened in performing the duties of their jobs.

104. Within his comments to the Select Board on August 16, 2021, Callahan stated in relevant part, *“We have been without an Interim Director since Billy’s dismissal. The fact that Glenn Wilson hasn’t been named Interim Director- really Director [sic] shows me you have no idea what is best for AYS or the youth people [sic] of Andover.”* Callahan included his complaint that Wilson had not been named Interim Director in his prior e-mail to Huntress on August 11, 2021. He wrote in part, *“Why has Glenn Wilson not been named Director or at the very minimum Interim Director? Glenn has been unofficially the Interim Director since Bill’s removal on February 5 and has kept us thriving as a Department.”* Stackhouse indicated Flanagan’s refusal to name Wilson as Interim contributed to her decision to resign her position. She stated, *“We weren’t doing well. Glenn was overburdened doing two jobs, and that impacted our work. When I saw the Town’s presentation on August 16, 2021, I knew Wilson wasn’t going to be appointed.”*

105. In describing how she believed Flanagan’s failure to name Wilson as Interim Director negatively impacted her and the staff, Stackhouse stated, *“For us, from an emotional standpoint it felt like our department wasn’t being supported by the Town. The whole*

¹⁷ Hogan provided this investigator with a timeline related to conversations he had with Lambert on and subsequent to August 27, 2021 related to her questions with respect to his programming. He wrote in part, *“Called into the Selectboard meeting 8/30 Talked about how it’s disrespectful that us who are staying to work telling us about program starts during the Selectboard meeting. Minimal Communication about programs and what we think the youth services needs.”* Lambert corroborated she had made a mistake with respect to his class scheduling. She stated, *“our lines got crossed-he was pissed.”*

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situation was traumatic. The messaging from the Town was to support AYS—but to me, if that were true—why wouldn't they have named Glenn Director? They wanted to bring someone in to dismantle the department. When Wilson assumed two jobs, I helped Wilson a bit more administratively. The biggest impact on us was that poor Glenn was stressed out. He was running programs with kids and doing the administrative work. I could feel his stress, and it made me feel helpless."

106. Lombardi indicated he was deeply disappointed Flanagan failed to name Wilson as Interim Director. He stated, "There was a huge void when Bill left. We asked ourselves, can we do this without Bill? We decided we could and we owed it to the young people. We were managing loads of people. We were trying to support each other. We were left at that point. We had no trust in leadership. Glenn not only had to oversee day to day programs but now had to deal with administrative operations. Glenn was doing the Director and the Assistant Director's job. Two full time positions. Glenn was more than capable of doing the job. We had not offered programs for the fall. There was no plan—no vision. My anxiety and blood pressure were high. We learned in an e-mail the Town Manager might have a plan—it never materialized. In June we learned that that Wilson wasn't being considered. I was fed up at having no guidance, no Director, the untruths put in the news about us."
107. In a subsequent e-mail to this investigator, Lombardi wrote in part, *"It left me (and all the full-time staff) feeling undervalued as to what we had brought to the youth services. I found myself confused wondering, "Did Wilson's 27 years speak nothing for him at least being given the nod at interim director?" Did our combined 90 years of Youth Development experience not warrant an invitation to have a say with what the future would bring for the Youth Services? I felt as though we were being left to languish as days turned into weeks which turned to months, and there was no movement in the planning next steps. It seemed confusing that this would be what happened and it became clear there was no plan to support me individually or the collective staff that remained as we continued to try to work, and yet did so without any understanding of what would happen next. Being overlooked and effectively ignored caused great apprehension. With all this emotion and uncertainty, we did all we could to give our best to our staff, the participants, and families, as well as the community. And while we had the best intentions for all of that, I can't imagine that our strained mental, emotional, and physical states allowed us to serve our staff with the same quality and high standards during that time. Many days when I drove in to work I felt anxious and sad, and so I do realize that we could not have possibly served young people and their families to our expected standards. I still feel emotional distress recollecting how I felt in those days. To paint a picture, we were a ship in a storm. We had lost our captain, and the waves were crashing all around us. Honestly, it felt as though we were intentionally left to drown at sea. Truly."*

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108. Lombardi indicated Flanagan's refusal to name Wilson as Interim Director negatively impacted full time and seasonal staff. He wrote in part, *"The removal of Fahey left a void in care and responsibility for the program, the building, and the staff. That care and responsibility became absorbed into each of the fulltime, part time, and seasonal employees. This obviously had a major impact on the full-time staff and our day-to-day tasks and responsibilities. With Wilson becoming the primary contact for and with town leadership, it took away from his ability to fully focus on his normal responsibilities – as assistant director and someone who ran multiple programs daily. The full-time staff met often to make sure that all needs were being met to the program, building, staff, and greater community.*

While we worked through the removal of a full-time staff member and made sure that all our responsibilities were being taken care of, it was clear that some other tasks and responsibilities would have to shift. We called upon part time and seasonal staff to help carry the load."

109. When asked to detail the additional responsibilities he assumed from February 5 through August 19, in an e-mail to this investigator Wilson wrote, *"I continued my duties as assistant director when Bill was placed on leave which included: paying bills, collecting and depositing fees, managing website, advertising programs, running multiple programs, supervision of building and staff. I assumed the Director's responsibilities which included: full accountability for the program development, hiring seasonal staff, special event coordination, approving expenditures and purchase orders, budget management, liaising between student, school and community groups, meeting with management, and administering payroll. I performed the duties of both positions from Feb 5 through Sept 2."*

110. It is undisputed Wilson repeatedly requested he receive a 3.5%¹⁸ stipend increase to reflect the additional responsibilities he assumed from February 5 through September 2, 2021. From corroborated statements from Lambert, Peznola and Wilson, Wilson met with Lambert and Peznola on multiple occasions to request the increase. Within her July 14, 2021 management notes, Peznola wrote in part, *"Received an e-mail from Glenn asking for a follow-up on his request for the 3.5% stipend. I responded via e-mail that despite my attempts, he refused to meet with the Town Manager. I offered to file a grievance if he wanted to take that route, and asked him to provide a copy of Bill's job description highlighted with the specific functions Glenn had been performing since February. He never responded to the e-mail and never provided any data for a grievance. He never brought it up again."* Within her management notes dated May 19, 2021, Lambert wrote in relevant part, *"Glenn asked for the 3.5% salary bump. He's been in the role and feels it's fair he receive it from when Bill was on leave. I told Glenn I would advocate on his behalf."*

¹⁸ Wilson indicated he received the 3.5% from the Town subsequent to his resignation on August 19, 2021

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111. By all accounts, in response to Flanagan's request Wilson provide him a business plan outlining AYS plans for the upcoming year, Wilson did not submit one. In her August 5, 2021 management notes, Peznola wrote in relevant part, *"During his August 5 meeting with Wilson, Flanagan asked Glenn to provide an outline of a business plan for the upcoming year and wanted to schedule another meeting for them to sit down and discuss. Glenn said he would have that to him by the following week. Glenn never provided the business plan, never communicated with the Town Manager after this meeting. It also appears from subsequent events that he never spoke to his staff about the offer of counseling."*
112. When asked why he did not meet in person with Flanagan to request the stipend, Wilson stated, "I didn't have to. It was in the collective bargaining agreement—it was owed to me." Peznola stated, "The collective bargaining agreement¹⁹ reads that the employee will be compensated at a 3.5% increase provided that the Town Manager has reviewed the change in job responsibilities and has agreed to the arrangement. Peznola added, "None of this is guaranteed unless the Town Manager has agreed. Which is why Wilson's meeting with the Town manager was necessary." This investigator notes, when asked if he could've handled anything differently with respect to advocating for his staff and for the position of Interim Director, Wilson responded, "I didn't have anyone to bounce things off of. Until I retained counsel, I had no-one. I had been beaten down by the bureaucracy."
113. With respect to AYS staff allegations he unfairly failed to name Wilson as Interim Director shortly after Fahey was placed on leave, Flanagan stated, "I was initially open to making him the Interim Director. Shortly after Fahey was terminated on May 10, 2021, I asked Peznola to set up a meeting with him to discuss it. We had received positive feedback about the summer programming. I wanted to discuss his plans for the AYS moving forward. I had questions for him about his ability to manage the staff. I did not know if he had the tools to lead his department but I was looking forward to sitting down with him and discussing it. Sometime in late May – early June 2021, Peznola informed me Wilson wasn't taking me up on my repeated offers to meet with me. He didn't want to meet with me." Flanagan indicated appointing Wilson to the AYS Interim Director position after June 2021 was "not an option" because he became aware of allegations of potential financial improprieties involving Wilson and other AYS staff.
114. In his August 20, 2021 statement to the press, Flanagan wrote in relevant part, *"One issue that has been raised involves the Town's decision to not appoint a member of the existing staff to the role of Interim Director instead of following the Town's typical assessment and selection process to find and select a qualified individual to serve in the interim capacity. As noted, there is an investigation underway to look into potential violations of law and*

¹⁹ The relevant collective bargaining agreement language is included within the Appendix of this report

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improprieties by current AYS staff. In those circumstances it simply would not have been appropriate to appoint a member of the existing staff.”²⁰

e) Allegations against Flanagan: August 5, 2021 Threatening and Intimidating commentary

115. It is uncontested on August 5, 2021, Flanagan met with Wilson along with Lambert and Peznola in order to discuss the future of AYS and alert Wilson that the Eagle Tribune would be publishing a story related to alleged financial improprieties by him and other AYS staff. Flanagan stated, “Based on all the public records requests, the Town was reviewing the text messages between Fahey and AYS staff. We discovered potential financial improprieties involving Fahey, Wilson and current AYS staff. I initially called the meeting to give him a heads up about the press story. I didn’t want him to get blind-sided by it. I wanted to find out if there was anything else the Town should know prior. I also wanted to discuss his plan on how to move AYS forward. I immediately started the meeting by telling him I didn’t expect him to trust me. I had never had a one-on-one meeting with him. However, everyone I had ever spoken to had spoken highly of him. At one point I stated, ‘The louder the drum bangs, the deeper they dig.’ I meant that every time we received requests by the public for information, we were obligated to dig deeper too as a result, in order to provide the requested information. The news had requested the text messages. The more requests we received, the more we were required to produce. I 100% never believed he or AYS staff were causing the public backlash. I asked Wilson to think about what his plan for AYS would look like for AYS and provide me his thoughts. He responded by saying ‘What do you mean about my thoughts?’ I never heard from him again.” When pressed during a subsequent interview if looking back he would have used a different phrase, Flanagan stated, “If I knew that my phrase was upsetting him, I would have been more literal and told him, ‘With every request for information, the Town is obligated to produce the information which in this case often led to new information.’”

116. Wilson stated he found Flanagan’s commentary “The louder the drum bangs, the deeper they dig,” highly intimidating and threatening. Wilson continued, “He said the people [public] are not helping. He/They thought I was masterminding the public outcry. I purposefully did not engage in any resistance in the hopes I would become the Director of AYS.” When pressed to specify what he found threatening about Flanagan’s statement, Wilson stated, “I asked myself, is that statement regarding me? Is the newspaper going to dig? Are you [Town Manager] going to dig? Or are you going to tell the newspaper where to dig? The Town had Bill’s phone. I know the Town was upset—they got a lot of blowback

²⁰ From a review of e-mails between Flanagan, Porter and Lambert, it is evident Flanagan received e-mail complaints from Andover residents related to his decision not to appoint Wilson to the Interim position. Flanagan engaged the law firm of Nixon Peabody to conduct the investigation into allegations of ethics policy violations by former AYS staff. It is noted none of the former AYS staff participated in the interviews with Nixon Peabody investigators.

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from firing Bill. I felt like the attitude from the Town was '[I]et's see if we can find another reason to terminate Bill.' My fear was that I was being targeted. Flanagan's comment made me nervous. The Town has unlimited resources. They used them to get rid of Bill. I'm just a person. What was going to happen to me?" Wilson readily admitted he was "highly distrustful"²¹ of Flanagan prior to attending the meeting with him. While he acknowledged he had never met one-on-one with Flanagan prior, he described a prior negative interaction with Flanagan while serving on the negotiating team. He further indicated he had been upset with Flanagan sometime in 2016 because Flanagan had not considered his application and never interviewed him for the position of Community Services Director. When questioned with respect to his decision not to interview Wilson for that position, Flanagan stated, "He did not meet the minimum qualifications for the position."

117. Wilson readily acknowledged he spoke with former AYS staff Lombardi, Stackhouse and Callahan shortly after meeting with Flanagan - to relay his concerns over Flanagan's statement. Callahan stated, "Wilson met with Flanagan. He came back and told us the Town was going to investigate all of us. He told us Flanagan said, 'the louder the drum bangs the deeper they're going to dig.' We were all intimidated by that statement. It supports a threat against us. More people who speak out, the deeper the Town is going to dig into us and remove us from our jobs."
118. Lambert and Peznola provided similar accounts of Wilson's meeting with Flanagan. Lambert stated, "Flanagan couldn't have been nicer. I recall Flanagan saying to Wilson that he didn't know what was in the texts but the public was requesting them. He asked if other staff were still being paid by the Foundation. Wilson replied it was not happening at this time". When asked to describe Flanagan's statement "the louder the drum bangs the deeper they dig," Lambert stated, "I think Flanagan made the statement because the community was demanding information. We have to give up more information in response to more public requests."
119. Stackhouse stated, "When I heard that it confirmed all my suspicions that the Town Manager was against my department. No matter what happens, he was going to find something to get rid of us. It came straight from the horse's mouth at the top."
120. In describing his reaction to learning about Flanagan's commentary from Wilson, Lombardi wrote, *"This was unsettling to me on many levels. The idea of them being able to dig deeper seemed to mean that they didn't need any cause to investigate anything or anyone, including us. The drum banging, was in reference to the actions of supporters of Bill Fahey*

²¹ On August 9, 2021, a local digital newspaper published a story criticizing Flanagan. The story includes a statement that "just in the past week," Flanagan threatened "another employee- Thankfully, that employee had the courage to record the incident." When asked if he had recorded his meeting with Flanagan on August 5, 2021, Wilson did not respond. His attorney stated, "We can neither confirm nor deny that."

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and the Youth Services staff and program. In that same conversation, it was insinuated that we were behind these actions and that we were responsible for making it stop. It felt as if we were being intimidated into thinking we could easily be investigated and accused of wrongdoing. It was also another statement from town leadership telling us that we should keep our mouths shut about the situation and, on top of that, we should now go out and do the work of making sure no one else was talking about it or asking questions about the situation. This was extremely insulting, overwhelming, and threatening. Yet again, this felt like another example of us being stranded on an island to sort through this difficult situation, continue to do our jobs at the highest of quality (without our director and down one full-time staff member), and, on top of it all, be fearful of when the hammer may come down on us for some reason, any reason."

121. In her management notes summarizing the August 5, 2021 meeting, Peznola wrote in relevant part, *"Town Manager's office. Present: Andrew Flanagan, Jemma Lambert, Glenn Wilson, Terri Peznola. Mr. Flanagan opened the meeting by stating his hopes that this could be a positive conversation about the future of AYS and hoped all in the room would keep an open mind. However, he did want to inform Glenn, as a courtesy, that the Eagle Tribune had submitted a Freedom of Information Act request for the text messages that were evidence in the Bill Fahey investigation conducted by Regina Ryan. He advised Glenn that per the AG, he needed to provide those texts and that the texts show some financial irregularities involving the Andover Youth Foundation and Andover Youth Services and that the newspaper was going to publish a story about it. He asked Glenn if there was anything he as the Town Manager needed to know, and Glenn mentioned that although it had been past practice for the seasonal help to work additional hours and be paid directly by the Foundation, that he had stopped that practice. The Town Manager stated he understood that this was a difficult time for the staff and that sometimes the outside noise gets in the way but that he wanted to find a way forward. He asked Glenn to provide an outline of a business plan for the upcoming year and wanted to schedule another meeting for them to sit down and discuss."* In describing Flanagan's commentary including his use of the phrase "the louder the drum bangs, the deeper they dig," Peznola stated, "He was calmly stating a fact. The Town had to respond to the FOIA requests and was obligated to release information. The Town continued to receive multiple requests resulting in more information being uncovered with respect to potential improprieties by the former AYS Director and current AYS staff. In no way was that comment threatening or intimidating—it was fact based."

VIII. Conclusions

Based on the above summary of findings, I have made the following conclusions:

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Sufficient credible evidence exists to support the conclusion that on or about May 12, 2021, Lambert engaged in unprofessional and intimidating commentary towards Stackhouse, Lombardi, Callahan and Wilson by stating, "Remember who signs your paychecks. You work for the Town, not Bill."

1. Lambert readily admitted that during her meeting with AYS staff, she reminded the staff that it was the Town that signs their paychecks. This investigator credits corroborated statements from numerous witnesses, including Human Resources Director Porter, that Lambert's wording was more pointed than Lambert indicated, and that she specifically stated, "Remember who signs your paychecks. You work for the Town, not Bill." This investigator further credits the witnesses' statements that they found Lambert's comment intimidating and highly unprofessional. This investigator also credits statements from Porter who indicated she "cringed" upon hearing Lambert's commentary and believed the comment had a chilling effect on the staff. While Lambert argued her commentary was taken out of context by witnesses, including her rationale that she was simply reminding them "we all work for the Town," this investigator concludes her choice of words reasonably and inappropriately upset the staff and caused them to "feel silenced." Furthermore, this investigator credits corroborated statements from Porter, Stackhouse and Callahan that Lambert's use of the term "fired" was heavy handed, insensitive and "shocked them." Given the fact Lambert was more than aware of the staff's "longstanding and extremely close" working relationship with former AYS Director Fahey, this investigator concludes her decision to use overly harsh and intimidating language in her discussions with them was highly insensitive and inappropriate. This investigator further concludes Lambert's statements reasonably resulted in AYS staff believing they could not approach her with neither additional complaints and questions, nor provide her with honest feedback with respect to their ongoing workplace concerns. This investigator credits corroborated statements from Callahan and Stackhouse that Porter's response to Lambert's commentary, including the fact she remained silent, made them feel unsupported and anxious. While this investigator credits statements from Porter that she believed criticizing Lambert in the presence of staff would have been "unprofessional," given her role as Director of Human Resources, this investigator concludes Porter should have immediately addressed the incident with Lambert and Flanagan shortly after the meeting concluded.

Insufficient credible evidence exists to support the conclusion that Lambert and Porter unfairly silenced staff by directing them not to speak about the specifics of Fahey's termination with the media, AYS staff and the community. Furthermore, Insufficient evidence exists to support the conclusion Porter engaged in unprofessional conduct by "unfairly boxing up" Fahey's belongings in the presence of AYS staff. Finally, insufficient evidence exists to support the conclusion Town management including Flanagan, Lambert and Porter engaged in unprofessional conduct by failing to regularly communicate with them and to offer support and counseling.

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1. It is undisputed the Town maintained a consistent practice with respect to instructing personnel within all departments not to discuss ongoing investigations and the details of employee terminations with the media, residents, and current Town personnel. This investigator concludes Porter reasonably reminded staff not to discuss the matter and direct all questions to her. This investigator concludes Porter's conduct was consistent with Town policy, reasonable, professional and did not unfairly "silence" former AYS staff.
2. With respect to AYS staff claims that Porter behaved unprofessionally by "unfairly boxing up" Fahey's belongings in their presence, this investigator credits statements from Porter that she did not expect AYS staff to assist her during the process, and was tasked with ensuring all of his belongings be removed from the building. Witnesses admitted they were upset, in large part, because their longstanding Director and friend had been terminated, and were "highly emotional" at observing Porter remove his belongings from his office. This investigator concludes their allegations that Porter's conduct was unprofessional on this occasion are unsubstantiated. This investigator further concludes that their allegations that this incident contributed to a toxic work environment constitutes an overreaction.
3. With respect to their claims Flanagan, Lambert, and Porter engaged in unprofessional conduct by failing to communicate with them and offer support and counseling February through August of 2021, this investigator concludes their claims are unfounded. It is undisputed on multiple occasions Porter and Lambert regularly "checked in" with Wilson and AYS staff in person and via e-mail. It is further concluded Porter moved her office to the CYC building for more than two months to offer support and answer their questions.
4. Furthermore, based on e-mail correspondence between the parties and from corroborated statements from Peznola, Porter and Lambert and from a review of their respective management notes, it is uncontested Peznola, Porter and Lambert repeatedly offered EAP services including counseling to Wilson and AYS staff. While Wilson, Stackhouse, Lombardi and Callahan claimed they received inadequate support and offers of assistance from the Town, they readily acknowledged they "did not trust management." This investigator credits statements from Porter, Peznola and Lambert that, on multiple occasions, Wilson and AYS staff refused their offers of programmatic and EAP counseling support. While Flanagan did not meet with all AYS staff in person to offer counseling services, it is undisputed he extended an offer of counseling support to Wilson and his staff during an August 5, 2021 meeting. Wilson readily admitted he did not trust Town management and wanted the Town to "leave him alone" to let him do his job. It is undisputed former AYS staff did not respond to Porter's e-mail offer of program assistance, nor did they meet with her while she was in the building to ask questions or raise concerns. This investigator credits corroborated statements from Huntress, Lambert and Wilson that Wilson wanted "autonomy" from the Town and actively petitioned Lambert and Huntress to "get Porter out" of the CYC building. It is further noted multiple witnesses

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including Wilson and Callahan, did not want management interfering with their daily operations in any way. This investigator concludes former AYS staff's statements, including their allegations against the Town that there was no communication and only an offering of minimal support, lack credibility.

Insufficient credible evidence exists to support the conclusion that on or about May 12 through August 2021, Flanagan engaged in unprofessional conduct by directing Porter to "babysit staff and work out of the CYC building" subsequent to Fahey's termination. Furthermore, insufficient evidence exists to support the conclusion Porter and Lambert engaged in unprofessional conduct by unfairly scrutinizing staff, requesting staff schedules, and administrative information from Wilson.

1. This investigator concludes Flanagan's decision to authorize Porter to intermittently work out of the CYC building was reasonable and professional. This investigator credits corroborated statements from Porter and Flanagan that their decision to have Porter present at the CYC building was based solely on their desire to offer support to staff and get a better understanding of their operation and programmatic needs. It is further undisputed the Youth Services Program falls under the management of the Town of Andover. This investigator credits corroborated statements from Flanagan and Lambert that, prior to Fahey's termination by Flanagan, they were not overly involved in the program's operations in large part because Fahey and his team "wanted to remain autonomous" and "independent" of the Town in their delivery of services to Andover youth. Wilson readily admitted to this investigator and multiple witnesses, including Huntress and Lambert, that he wanted autonomy from the Town and was upset Porter was working in the building because she was an agent of the Town. While it is noted Porter did not request formal meetings with AYS staff while she was in the building, it is undisputed she extended a written offer to assist them with youth programming and further informed staff she was present in the event they had any questions or concerns. Given the fact all former AYS staff were Town employees and subject to management oversight by the Town, this investigator concludes former AYS staff's statements that this incident contributed to a "toxic work environment" to be unreasonable and unfounded. Notwithstanding this conclusion, this investigator credits statements from Flanagan that he expected both Porter and Lambert to have a presence in the building and concludes Lambert's rationale that "she was too busy" to maintain a presence alongside Porter at the CYC building to be unreasonable and unprofessional given her role in supervising and supporting the AYS staff.
2. Furthermore, while Wilson alleged Porter and Lambert unfairly scrutinized his work by directing him to provide them with AYS staff schedules and submit information for their approval, this investigator concludes their conduct was professional, reasonable and consistent with their management roles and responsibilities. This investigator credits corroborated statements from Lambert and Porter that their requests for information, including staff schedules and staff

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hours, was an attempt to ensure AYS operations were in line with labor laws and consistent with Town administrative procedures. It is further undisputed Lambert did not single Wilson out, but rather required all her Division Heads submit information for her approval. This investigator concludes that AYS staff unreasonably failed to recognize and accept that they are Town employees and, particularly after Fahey's termination, subject to the management and direction of the Town Manager, the Director of Community Services and the Human Resources Director.

Insufficient credible evidence exists to support the conclusion that Flanagan engaged in unprofessional conduct by failing to appoint Wilson to the AYS Interim Director position. Furthermore, insufficient evidence exists to support the conclusion Flanagan engaged in threatening and intimidating commentary towards Wilson by stating "the louder the drum bangs, the deeper they dig."

1. While it is undisputed Flanagan did not appoint Wilson to the position of Interim Director of AYS shortly on or about February 5 through August 19, 2021, this investigator concludes his decision to not appoint Wilson as Interim Director was reasonable and professional. This investigator credits Flanagan's statements that he reasonably delayed naming an Interim Director shortly after Fahey was placed on leave from February through May 2021 in part, because the Town had initiated an active investigation into Fahey and he was busy addressing multiple public information and media requests.
2. Furthermore, subsequent to Fahey's termination on May 10, 2021, it is undisputed Wilson repeatedly refused to meet with Flanagan to discuss the position and his plans for the future of AYS. Wilson readily admitted he was highly distrustful of Flanagan and delayed meeting with him. While Wilson argued Flanagan never requested that he provide him a written business plan for AYS, this investigator credits statements from Peznola that, on behalf of Flanagan, she repeatedly requested Wilson meet with Flanagan to discuss the Interim position, his plans for AYS and his stipend. This investigator concludes Flanagan's request to meet Wilson in-person and request he provide a plan for AYS prior to appointing him as Interim Director to be reasonable. It is noted Flanagan had never formally met with Wilson previously and did not have any prior opportunity to discuss Wilson's qualifications and plans for AYS. It is further undisputed Flanagan became aware of Wilson's and AYS staff's allegations on or about June 2021. This investigator credits statements from Flanagan that his decision to bypass Wilson for the role of Interim AYS Director was a direct result of being placed on notice that Wilson and others may have violated the Town's Ethics policy. Given the fact Wilson repeatedly refused to meet with Flanagan to discuss the Interim role, this investigator concludes Wilson's statements lack credibility and his claim that Flanagan unfairly and unprofessionally bypassed him for the role to be unfounded. While Wilson and AYS staff cited this example as evidence Flanagan created a "toxic work environment," no evidence exists to support this conclusion. This

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investigator finds that while not naming Wilson as interim director incrementally increased the responsibilities of seasonal staff, it did not result in any substantial change or negative increase in the responsibilities of the full-time staff, other than Wilson. This investigator finds that despite Stackhouse's, Callahan's and Lombardi's sincere concern about the effects of the added stress on Wilson, this increased concern for their colleague did not amount to a toxic work environment.

3. This investigator further concludes insufficient evidence exists to support the conclusion that on August 5, 2021, Flanagan used intimidating and threatening language during a meeting with Wilson. While Flanagan readily admitted he made the statement "the louder the drum bangs, the deeper they dig," during a meeting with Wilson, this investigator concludes he was reasonably referencing his need to provide more information in response to an onslaught of public information requests. It is undisputed Flanagan learned of allegations of potential ethics violations involving Wilson and AYS staff on or about end of June 2021. It is further undisputed Flanagan wanted to give Wilson a "heads up" that the story would be published in local newspaper. Wilson readily admitted, while he considered Flanagan's statement a "threat to his job," he acknowledged he did not know what Flanagan specifically meant by his statement and listed multiple possible meanings during questioning. This investigator credits corroborated statements from witnesses present in the meeting, including Lambert and Peznola, who indicated Flanagan was "calm and professional" during his commentary and was simply referencing his role in responding to public requests for information. While Wilson argued he took Flanagan's statement as a "threat" to his job, in part because Flanagan insinuated he was fueling the public and media backlash, this investigator credits statements from Flanagan he did not believe Wilson had initiated or instigated the public and media backlash. Wilson readily admitted he had a longstanding "distrust" of Flanagan and readily acknowledged he had delayed prior meetings with him. This investigator concludes Wilson's allegation that Flanagan statement constituted "threatening and intimidating" language towards him is unfounded and constitutes an overreaction.
4. Finally, this investigator concludes insufficient evidence exists to support the conclusion Flanagan created a toxic work environment for AYS staff by failing to involve them in his initial plans to restructure aspects of the AYS programming. While Flanagan admitted he did not consult with AYS staff prior to informing the Select Board on May 10, 2021 he would be making changes, he was within his authority as Town Manager to recommend AYS mental health and substance abuse services be "professionalized" and in line with youth programming offered in other municipalities. It is undisputed Flanagan recommended these changes as a direct result of the findings contained within Ryan's April 2021 investigatory report. This investigator concludes his decision to alert the Board with respect to his potential plans without consulting with AYS staff prior was reasonable and professional.

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Overall findings based on “toxic work environment complaints”

As described in detail above, while I concluded on one occasion, Jemma Lambert engaged in intimidating commentary that contributed to a “chilling effect” and considerable anxiety among AYS staff; overall, I did not find Town management created a “toxic work environment” for AYS staff. The operation of AYS programs and the delivery of services to the youth of the community would be improved by better overall management and enhanced communications between Town Hall and AYS staff, youth, and residents.

Audit Summary Conclusions

1. In addition to the investigation into allegations of a toxic work environment, this investigation included a summary audit of management’s communications and support of AYS from February through August 2021. Based on this audit, I have made the following general observations:
 - A) As written on the Town’s website, one of the basic goals of the AYS program is “Youth involvement in administrative procedures.” The Andover Youth Services program is a longstanding, active and vital program beloved by the youth and community. As evidenced by the nature of youth, parents and residents’ commentary during multiple Select Board meetings, it is evident the Town must establish robust, transparent, and streamlined communication with youth to ensure their feedback and voices remain an integral part of AYS programming and the Town’s administrative procedures. While this investigator credits statements from Flanagan that youth will be involved in the hiring of the new AYS Director, I conclude that input into the “future of AYS” was not actively and regularly solicited from youth and AYS staff by Town management prior to the August 16, 2021 Board meeting. While Lambert indicated she received regular feedback from parents and community members with respect to programming, this auditor found no evidence to suggest the Town actively and regularly observed, evaluated, or participated in AYS staff training or programming. Furthermore, no evidence exists to support the conclusion the Town actively sought feedback from youth via social media or on-line platforms. This auditor credits corroborated statements from all current and former AYS staff interviewed that, overall, management had not been reasonably involved in their programs or training. Furthermore, up until May, 2021, Town management was not fully informed with respect to how AYS mental health and substance abuse services were being delivered to at-risk youth. Given at least one former AYS staff maintained the credentials to deliver these services, the Town should have consulted with that staff member to solicit her feedback and recommendations with respect to counseling services to

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youth. All former AYS staff indicated they believed Town management “didn’t understand respect or care” about their work. This investigator concludes Town management should regularly solicit feedback from current full time and seasonal staff to inform their decisions related to AYS’ open positions and future AYS programming.

- B) The evidence overwhelmingly supports the conclusion the Andover Youth Services, a program managed solely by the Town, was *de facto* operating independently of the Town in many respects. Multiple former AYS staff readily admitted they wanted to be autonomous with respect to the Town’s supervision and their youth programming. The former staff indicated “they were there for the kids” and “were distrustful” of Town management’s interference in their work. It is further evident former AYS staff actively resisted being managed by members of the Town, and did not want other “Community Services Divisions” to interfere with their mission of serving youth. It is further undisputed that management was not fully aware of ongoing youth programming and some AYS administrative operations. Town management was further unaware, not only of who was providing seasonal training to the AYS staff, but also how, and what particular training was being provided to youth. It is further evident that up until May 2021, Town management did not regularly request AYS staff schedules. Upon requesting staff schedules, Lambert and Porter subsequently uncovered overtime issues in payments to AYS seasonal staff. It is evident the “hands-off” approach by the Town, in its management of AYS staff and programming, coupled with the insistence of former AYS staff to “be left alone”, resulted in a vacuum of communication between the Town and the AYS.
- C) By all accounts, the Town has not provided regular training to Town Department managers and staff on sexual and discriminatory harassment. All former AYS staff and managers interviewed corroborated some training was provided “years ago” but none could recall specifics, including, who provided it and what topics were covered. It is undisputed former AYS staff were blindsided and confused by management’s response to questions related to their former Director’s leave, investigation, and termination. This auditor concludes it is evident former AYS staff were unaware of what constitutes a violation under the Town anti-harassment policy, and what the Town’s legal obligation is to immediately address and investigate claims of harassment. This includes the Town’s practice of directing personnel not to discuss specifics of any ongoing investigation or termination with the media or staff. Given there was no prior adequate training provided to staff, this auditor concludes AYS staff were confused that Porter and Lambert did not provide an in -depth explanation for Fahey’s termination that included the range of misconduct that would violate Town policy. Furthermore, it is evident Town management, including members of the Board of

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Selectmen need additional training to better understand their obligations with respect to receiving and responding to complaints from Town personnel.

IX. Recommendations:

Based on the above findings of fact and audit conclusions, this investigator recommends the following:

1. Consider remedial and corrective action for Lambert. This should include one-on-one remedial training focusing on professionalism in the workplace and management within a unionized environment.
2. Update and redistribute the Town's policies relating to Sexual and Discriminatory Harassment in the Workplace. The current policies are outdated. Provide live training (platform and/or zoom) to all Town personnel including Department managers, supervisors, staff and Members of the Board of Selectmen. Training for managers should include an overview of: M.G.L. Chapter 151B; supervisory liability; Conducting Internal Investigations and Basics of Labor Relations: Progressive Discipline including Just Cause Analysis. Training for staff should include a thorough overview of relevant Town policies including to whom and how to report misconduct. Participants should receive a thorough overview of the Town's obligations in addressing complaints.
3. Establish on-line platforms and regular communication to ensure Andover Youth and AYS staff are given the opportunity to provide thoughtful feedback with respect to AYS programming and Town administrative procedures.
4. Consider increasing management oversight and involvement of the Andover Youth Services programming. AYS is a unique program that demands youth involvement in its mission, goals, and programming. Oversight should include an active involvement in the development and delivery of youth programming with an emphasis on capturing the needs of Andover Youth and involved community residents and organizations.

Signed _____ Jean Haertl _____

CEO, Safety and Respect at Work, LLC

Date: November 15, 2021

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Appendix A Letters of Resignation

August 19, 2021

Town of Andover
36 Bartlet St
Andover MA 01810

To Whom It May Concern:

After 27 years working for the Town of Andover, I am resigning my role as assistant director of Youth Services and my last day will be Sept 2.

I am grateful to have served Andover's young people and their families during this time.

Sincerely,



Glenn Wilson

SAFETY AND RESPECT AT WORK, LLC

August 19, 2021

To Whom It May Concern:

My name is Anthony Lombardi and I am employed by the Town of Andover, through the Youth Services department. I am sending this letter to inform you of my resignation, August 19, 2021, with my last day being September 2, 2021.

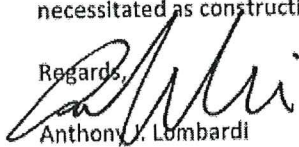
[REDACTED]

My current difficulties performing my job is a direct result of the toxic and unsupportive working conditions and environment. This includes, but is not limited to, being expected to perform job duties without the support of a direct for over six months. Additional supporting details may be provided upon request.

[REDACTED]
[REDACTED] The consistent pattern of impropriety on the part
of the town of Andover under Andrew Flanagan's leadership causes me significant concern [REDACTED]
[REDACTED]

As a result of all of this, and with great concern for my health and well-being, this resignation is necessitated as constructive discharge.

Regards,


Anthony J. Lombardi

SAFETY AND RESPECT AT WORK, LLC

August 19, 2021

To Whom It May Concern:

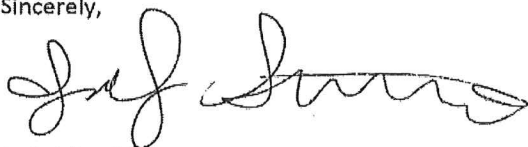
After over six years of working for the Andover Youth Services, I am resigning my role as Outreach Worker/Program Coordinator and my last day will be September 2nd.

At this time, the increasing intolerable work conditions I have been managing for the last several months have triggered a decline in my health. [REDACTED]

[REDACTED] My current difficulties performing my job is a direct result of the toxic and unsupportive working conditions and environment.

As a result of all of this, and with great concern for my health and well-being, this resignation is made necessary.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jaclyn Stackhouse', written in a cursive style.

Jaclyn Stackhouse

SAFETY AND RESPECT AT WORK, LLC

August 19, 2021

Andover Youth Services
40 Whittier CT
Andover, MA, 01810

Town Manager
Andrew Flanagan

Director of Human Resources
Jessica Porter

Community Services Director
Jemma Lambert

To Whom It May Concern:

My name is Neal Callahan and I am employed as a Program Coordinator at the Andover Youth Services. I am sending this letter to inform you of my resignation as of August 19, 2021, with my last day being 9/2/21.

The persistent intolerable work conditions, including a threatened pretextual investigation regarding the department where I work, for several months have caused a decline in both my physical and mental health and have negatively impacted my appetite, mood, and sleep.

These increases of stress, physical and mental health issues have made performing my job difficult to say the least. The above mentioned issues are directly related but not limited to, the toxic and unsupportive working conditions the town has created. This includes, be expected to perform job duties without the support of a Director for over 6 months. Additional supporting details will be provided upon request.

Due to the stress and a lack of trust in town management, after witnessing their impropriety and vindictiveness towards other town employees I have chosen to resign. As a result of all of this and with concern for my own physical and mental health this resignation is necessitated as constructive discharge.

Regards,
Neal Callahan

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Appendix B

Union Contract Provision Regarding Performance of Higher Grade Duties

AGREEMENT between the TOWN OF ANDOVER and the ANDOVER INDEPENDENT EMPLOYEES ASSOCIATION

July 1, 2019 - June 30, 2022

7.3 Performing Higher Grade Duties:

When an Association

employee is directed by their Department/Division Head to assume higher grade job responsibilities in the absence of an employee or vacancy for a period longer than four (4) weeks, such employee will be compensated with a minimum of a 3.5% increase provided the Town Manager has reviewed the change in job responsibilities and has agreed to the arrangement. Any absence longer than six (6) months will be re-evaluated by the Department/Division Head and the Town Manager.

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Appendix C Town of Andover Sexual Harassment Policy

SECTION III Employment Policies

Sexual Harassment in the Workplace Policy

I. Purpose

This memorandum establishes the policy of the Town of Andover regarding sexual harassment in the workplace by managers, supervisors, employees, and/or members of the public who use Town facilities, vendors and contractors. This memorandum also describes examples of conduct that may constitute unlawful sexual harassment and sets forth a complaint procedure to be followed by persons who believe that they are victims of unlawful sexual harassment.

II. Policy

The Town of Andover fully supports the right of all persons to hold employment in or enjoy access to our facilities in an atmosphere which promotes equal opportunities and prohibits discriminatory practices, including sexual harassment. Sexual harassment by managers, supervisors, employees, and/or members of the public who use Town facilities, vendors and contractors is unlawful and unacceptable and will not be tolerated. Further, any retaliation against an individual complaining of sexual harassment or cooperating with the investigation of sexual harassment is similarly unlawful and also will not be tolerated.

We view allegations and concerns about sexual harassment very seriously and we will respond promptly and decisively to instances where complaints of sexual harassment are brought to our attention by use of the established procedures which are set out and explained in this written policy.

Where it has been demonstrated to our satisfaction that such harassment has occurred, we will promptly act to deal with and eliminate any harassment and/or other unlawful conduct. We will impose such corrective action as is necessary up to and including termination.

Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment, it should not be construed as preventing, limiting, or delaying the Town of Andover from taking disciplinary action against any individual up to and including termination, in circumstances where the Town of Andover deems disciplinary action appropriate regardless of whether such conduct satisfies the definition of sexual harassment.

III. Definition of Sexual Harassment

A. The legal definition of sexual harassment

Sexual harassment is a form of sex discrimination that is illegal under both Title VII of the Civil Rights Act of 1964 and M.G.L. c 151B. These laws provide that unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature constitute sexual harassment when:

- § submission to or rejection of such advances, requests, or conduct is made, whether explicitly or implicitly, a term or condition of an individual's employment or a basis for employment decisions affecting the individual; or
- § such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, humiliating or sexually offensive work environment.

These definitions are broad and include any sexually oriented conduct, whether it is intended to harass or not, that is unwelcome and has the effect of creating a workplace environment that is hostile, offensive, intimidating or humiliating to either male or female workers.

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B. Examples of conduct that can constitute unlawful sexual harassment

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive and that fails to respect the rights of others. Sexual harassment occurs in a variety of situations which share a common element; the inappropriate introduction of sexual activities or comments into the work environment.

Sexual harassment often involves relationships of unequal power. Such situations may contain elements of coercion, such as when compliance with requests for sexual favors becomes a criterion for granting privileges or favorable treatment on the job. However, sexual harassment may also involve relationships among equals, such as when repeated advances or demeaning verbal comments by a co-worker towards another co-worker have a harmful effect on a person's ability to perform his or her work. Sexual harassment can also involve employee behavior directed at non-employees or non-employee behavior directed at employees.

Examples of sexual harassment include, but are not limited to:

- repeated, unwanted sexual flirtations, advances or propositions;
- continued or repeated verbal abuse or innuendo of a sexual nature;
- uninvited physical contact such as touching, hugging, patting, brushing or pinching;
- verbal comments of a sexual nature about an individual's body or sexual terms used to describe an individual;
- display of sexually suggestive objects, pictures, posters or cartoons;
- continued or repeated jokes, language, epithets or remarks of a sexual nature in front of people who find them offensive;
- comments or inquiries about a person's body or sexual activity, deficiencies or prowess;
- prolonged staring or leering at a person;
- making obscene gestures or suggestive or insulting sounds, such as whistling;
- the demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment status or promises of preferential treatment, such as favorable performance reviews, salary increases, promotions, increased benefits, or continued employment;
- indecent exposure;
- assault or coerced sexual acts.

This behavior is unacceptable in the workplace itself and in other work-related settings such as work-related social events and travel.

C. Dispelling common myths about harassers and victims

Contrary to popular belief, sexual harassment is not limited to prohibited behavior by a male employee toward a female employee or by a supervisory employee toward a non-supervisory employee. Sexual harassment can be found in any of the following less traditional situations:

1. A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser.
2. The harasser does not have to be the victim's supervisor. He or she may also be a supervisory employee who does not supervise the victim, a co-worker, or in some circumstances, a non-employee such as a member of the public who uses Town facilities.
3. The victim does not have to be the opposite sex of the harasser.

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4. The victim does not have to be the person at whom the unwelcome sexual conduct is directed; the victim may be someone who is affected by such conduct even though it is directed at another person. For example, the sexual harassment of one employee may create an intimidating, hostile, humiliating or offensive work environment for a co-worker, or may interfere with the co-worker's performance. In addition, consensual sexual behavior in the office between two employees may be offensive to a third employee or result in favoritism that harms the third employee.
5. Sexual harassment does not depend on the victim's suffering an economic injury, such as losing a promotion, as a result of the harasser's conduct. As the examples of improper conduct listed above show, sexual harassment can occur whenever unwelcome conduct of a sexual nature creates an intimidating, hostile, humiliating or offensive work environment.

IV. Employee Responsibilities

Each employee of the Town of Andover is personally responsible for ensuring that his or her conduct does not sexually harass any other employee or non-employee in the workplace. Each employee is responsible for cooperating in any investigation of alleged sexual harassment if requested to do so by the person conducting the investigation.

V. Supervisor and Manager Responsibilities

It is the responsibility of each supervisor and manager to strictly enforce the terms of this policy. Supervisors, managers, or department heads who become aware of incidents of sexual harassment in their departments, even in the absence of a formal complaint, should take appropriate actions to eliminate the conduct. Supervisors and managers may seek further information and guidance from the Human Resources Office.

VI. Ways of Dealing with Sexual Harassment

A. Self-help* *(please see note at the end of this policy from the Human Resource Director)*

If an individual believes that he or she is being sexually harassed, the most immediate goal is to stop the offensive conduct. Individuals should:

- Promptly and firmly confront whomever is doing the harassing.
- State that his/her conduct offends, intimidates and/or embarrasses you.
- Describe how the harassment negatively affects your work.
- Request that he or she stop the conduct immediately.
- Say things like, "Please don't touch me. I don't like it. It makes me uncomfortable."; "I don't think jokes like that are funny." Please don't tell them when I am in the room."; "I'd like it a lot better if you'd comment on the quality of my work rather than on the way I look."; "My name is _____, not 'honey'."

If practical, bring a witness with you for this discussion. After the discussion, write a summary of the conversation, including the date and name of anyone who accompanied you.

In all instances where an individual believes that he or she has been sexually harassed, it is helpful, but not necessary, to write down a description of the offensive conduct, the date or dates on which it took place, and the names of anyone who witnessed the conduct or heard the offensive remarks.

B. Seeking Guidance

In some instances, confronting the harasser directly may be too intimidating or uncomfortable, particularly when the harasser is an immediate supervisor. An individual who wants to discuss his/her situation may contact the Town's Human Resources Director for more information about sexual harassment and the complaint procedure in order to decide whether to make a complaint.

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C. Formal Complaint

1. An individual who believes that they have been subjected to sexual harassment has a right to file a formal complaint with his/her supervisor or, if appropriate, the Human Resources Director. This may be done orally or in writing. The supervisor and the Human Resources Director will conduct an investigation in a fair and expeditious manner.
The investigation will include a private interview with the person filing the complaint and with any witnesses. An interview with the alleged harasser will also be conducted. Once the investigation has been completed, the supervisor and the Human Resources Director will present the findings to the appropriate Department Head.
2. If an investigation of a complaint of sexual harassment reveals that an employee, supervisor, manager, or department head has engaged in actions or conduct constituting sexual harassment, the Town will act promptly to eliminate the offending conduct and take appropriate disciplinary action, up to and including discharge. The disciplinary action taken will depend upon the seriousness of the violation. Disciplinary action will be taken by the appropriate Department Head, in accordance with the Personnel Policy and Procedures Manual, appropriate union contract, or other appropriate disciplinary procedure. Such action may include: counseling, informal or formal reprimands, oral or written warnings, suspension, demotion, transfers, and other formal sanctions, including termination of employment. It is the responsibility of all supervisors, managers and department heads to strictly enforce the terms of this policy.
3. Any supervisor, manager or department head who prevents or attempts to prevent and individual from making a complaint of sexual harassment or who fails to cooperate with or interferes in any way with the investigation of such a complaint, will be subject to disciplinary action.
4. No Retaliation for Filing Complaint of Sexual Harassment: No employee, supervisor, or manager shall be retaliated or discriminated against in any way for making a complaint of sexual harassment or for assisting in the investigation of such a complaint. Retaliation against any person for reporting sexual harassment is unlawful and will not be tolerated; further, it will subject the retaliator(s) to disciplinary actions.**
5. Any non-employee found to have committed an act of sexual harassment may be removed from Town premises, or other appropriate action may be taken.
6. Confidentiality: All actions taken to investigate and resolve complaints through this procedure shall be conducted with as much confidentiality as possible without compromising the thoroughness of the investigation. The individual filing the complaint will be informed of the results of the investigation.
7. If you would like to file a sexual harassment complaint, you may do so by contacting your supervisor at his/her office or by calling the main switchboard at (978)623-8200. The Human Resources Director may be reached at (978)623-8530. Both persons may be contacted through inter-office mail in care of their respective departments. These persons are also available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process.

****HR Director's Note:** The filing of a sexual harassment complaint is a serious matter and every protection is afforded the complainant. However, should it be determined that a person makes a false allegation in a complaint of sexual harassment such employee will be subject to disciplinary action including possible termination of employment.