

ARTICLE 3.14

**COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY RELATIONS AND OFFICE
OF DIVERSITY, INCLUSION AND COMMUNITY RELATIONS**

SECTION 3.14.1 ESTABLISHMENT AND PURPOSE

This By-law establishes the Commission for Diversity, Inclusion, and Community Relations ("Commission" or "CDICR") and the Office of Diversity, Inclusion, and Community Relations ("Office" or "ODICR").

Valuing diversity and inclusion in and for the Brookline community, the Commission, in coordination with the Office, aims to support a welcoming environment by encouraging cooperation, tolerance, and respect among and by all persons who come in contact with the Town of Brookline ("Town"), including residents, visitors, persons passing through the Town, employers, employees, and job applicants, and by advancing, promoting and advocating for the human and civil rights of all through education, awareness, outreach and advocacy.

The Purpose of the Commission and the goal of the Town shall be to strive for a community characterized by the values of inclusion. The Town believes that inclusion will provide opportunities and incentives to all who touch Brookline to offer their energy, creativity, knowledge, and experiences to the community and to all civic engagements, including town government; and that inclusion is, therefore, a critically important government interest of the Town.

Inclusion is defined as actively pursuing goals of including, integrating, engaging, and welcoming into the community all persons who come in contact with the Town regardless of their race, color, ethnicity, gender, sexual orientation, gender identity or expression, disability, age, religion, creed, ancestry, national origin, military or veteran status, genetic information, marital status, receipt of public benefits (including housing subsidies), or family status (e.g. because one has or doesn't have children) (herein, "Brookline Protected Classes").

In striving to achieve the goal of inclusion, the Commission shall be guided by the following general principles: (1) the foundation of community is strong and positive community relations among and between all groups and individuals in the community, regardless of their membership in a Brookline Protected Class; (2) the substance of community is the recognition of human rights principles as applicable to all persons who come in contact with the Town; (3) justice in a community requires, at a minimum, monitoring and enforcing civil rights laws as they apply to all persons who come in contact with the Town; and(4) the commitment of the Town to these principles requires vigorous affirmative steps to carry out the word and spirit of the foregoing.

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The Commission shall consist of fifteen (15) residents, who shall be called Commissioners.

Commissioners shall be appointed by the Select Board and shall hold office for a period of not more than three (3) years with terms of office expiring on August 31 of an appropriate year in a staggered manner so that approximately one-third (1/3) of the terms of the Commissioners will expire each year. A Commissioner whose term is expiring is expected to submit their renewal application to the Select Board not later than August 1 of the expiration year. The term of a Commissioner who does not submit a renewal application in a timely manner shall expire on August 31 of that year. The term of a Commissioner who submits a timely renewal application shall then be extended until notified by the Town Administrator that the renewal application has been acted upon. If the application is denied, the term of that Commissioner shall expire five days after the date of the denial letter. If the application is approved, the term shall expire on August 31 of the year specified in the approval letter.

The Select Board may appoint additional non-voting associate members (in accordance with Section 3.1.5) as it determines to be necessary, which may include youth or persons who do not reside in Brookline but have a substantial connection to Brookline or to the Brookline Public Schools. The Select Board shall select one of its members to serve *ex officio* as a nonvoting member of the Commission. A quorum of the Commission shall consist of a majority of the serving members on the Commission, with a minimum of six.

The Select Board shall seek a diverse and inclusive group of candidates for the Commission, which may include youth. Candidates for Commissioner shall be qualified for such appointment by virtue of demonstrated relevant and significant knowledge, life experience, or training. The composition of the Commission shall include persons with the types of such knowledge, experience, or training necessary to enable the Commission to perform the duties assigned to it by this By-law. All Commissioners shall serve without compensation.

In the event of discontinuance of the service of a Commissioner due to death or resignation, such Commissioner's successor shall be appointed to serve the unexpired period of the term of said Commissioner. The Commission may recommend to the Select Board candidates to fill such vacancies.

SECTION 3.14.2 APPOINTMENT, ROLES AND RESPONSIBILITIES OF THE DIRECTOR AND CHIEF DIVERSITY OFFICER

There shall be an Office of Diversity, Inclusion and Community Relations ("Office"), which shall be a unit of the Select Board's Office, and led by a professional in the field of human relations or

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similar relevant field of knowledge, who shall be known as the Director of the Office of Diversity, Inclusion and Community Relations ("Director"), and that person shall also serve as the Chief Diversity Officer ("CDO") for the Town. In the event of a vacancy in the position of Director, the Town Administrator, after consultation with the Commission, shall recommend to the Select Board a replacement with appropriate qualifications.

The Director shall offer professional and administrative support to the Commission in the administration of its functions and policies under this By-law or any other By-law giving the Commission responsibilities. If needed, the Director shall ask for additional assistance to carry out the Director's duties. The Office shall be physically situated in whatever department the Town Administrator determines would most easily provide the Director any such assistance.

The Director shall be a Department Head/Senior Administrator and shall report to the Town Administrator.

The Director/CDO may bring a matter directly to the attention of the Select Board in the event that person believes, in their professional judgment, that a particular situation so warrants. The CDO work with the Human Resources Office to promote diversity and inclusion.

The CDO shall serve in the role of ombudsperson to provide information and guidance and manage the complaint process as described in Section 3.14.3 (B). ~~dispute resolution services to all persons who come in contact with the Town who feel that they have been discriminated against or treated unfairly due to their membership in a Brookline Protected Class, or in relation to Fair Housing or Contracting issues, interactions with businesses or institutions in the Town, or interactions with the Town and/or employees of the Town.~~

The CDO shall be responsible, with the advice and counsel of the Commission, the Human Resources Director, and the Human Resources Board, for the preparation and submission to the Select Board of a recommended diversity and inclusion policy for the Town, including equal employment opportunity and affirmative action, and recommended implementation procedures. The diversity and inclusion policy shall address hiring, retention and promotion, and steps to ensure a work environment that is friendly to diversity and inclusion.

The CDO shall respect the rights to privacy and confidentiality of all individuals to the fullest extent required by law. ~~The CDO may attempt to mediate disputes/complaints and/or to refer such complainants to the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Office of Town Counsel, or such other body as the CDO deems appropriate. The Director/CDO shall report on these incidents to the Commission in terms of issues and trends but shall show full respect for the rights to privacy and confidentiality~~

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~~of the individuals involved to the fullest extent required by law. In the event that a person who comes in contact with the Town, except for employees of the Town, chooses to bring a complaint to the Commission after seeking the services of the CDO in said officer's role as an ombudsperson, the Director/CDO may discuss the case in general terms with the Commission (see Section 3.14.3(A) (v)).~~

~~The CDO shall also serve as an ombudsperson for employees of the Town if they feel they have been discriminated against or treated unfairly on the basis of membership in a Brookline Protected Class. The CDO may attempt to mediate such disputes or refer such employees to the Human Resources Office, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, their union representative, and/or such other body that the CDO deems appropriate. The Director/CDO shall hold all such Town employee matters in confidence and shall respect the privacy rights of any such individuals but may discuss with the Commission, in general terms, the problems or issues that such individual cases, provided, however, doing so does not violate any person's rights to privacy.~~

SECTION 3.14.3 POWERS AND DUTIES OF THE COMMISSION

- (A) To implement the Mission of the Commission and the Office, the Commission, with the assistance of the Director and the Director's staff, shall have the following responsibilities:
- (i) Strive to eliminate discriminatory barriers to jobs, education, and housing opportunities within the Town and work to increase the capacity of public and private institutions to respond to discrimination against individuals in the Town based on their membership in a Brookline Protected Class;
 - (ii) Enhance communications across and among the community to promote awareness, understanding and the value of cultural differences, and create common ground for efforts toward public order and social justice;
 - (iii) Work with the Select Board, the Town's Human Resources Office, the School Committee, and other Town departments, commissions, boards, and committees to develop commitments and meaningful steps to increase diversity and inclusion, and awareness of and sensitivity to civil and human rights in all departments and agencies of Town government;
 - (iv) Provide advice and counsel to the CDO on the preparation of a diversity and inclusion policy for recommendation to the Select Board, including equal employment opportunity and affirmative action procedures, or amendments or revisions thereto, and make suggestions through the CDO to the Human Resources Director, the Human Resources Board, and the School Committee on the

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- implementation of the diversity and inclusion policy;
- (v) Receive complaints of discrimination against individuals based on their membership in a Brookline Protected Class as described in 3.14.3 (B);
 - (vi) Institute and assist in the development of educational programs to further community relations and understanding among all persons in the Town, including Town employees;
 - (vii) Serve as an advocate for youth on issues arising in the schools and the community, concerning diversity and inclusion, and encourage public and private agencies to respond to those youth needs.
 - (viii) ~~Receive Complaints Against the Town, directly or through the CDO, against the Town, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Town, except Town employees (see Section 3.14.2), and after notifying the Town Administrator, the Commission shall (1) investigate the complaint by interviewing the complainant and any witnesses, (2) prepare written findings, and (3) recommend appropriate action to the Select Board, Library Trustees or Moderator as appropriate within 90 days of receipt of the complaint. The Commission/CDO, may in addition provide the complainant with information on complainant's options to bring proceedings at the Massachusetts Commission Against Discrimination or other appropriate federal, state, or local agencies. This By-law does not preclude any complainant from alternatively or additionally using other complaint procedures, such as the Police Department's Civilian Complaint Procedure or the Human Resources Office's procedures;~~
 - (ix) ~~Receive Complaints Against the Public Schools of Brookline, directly or through the CDO, against the Public Schools of Brookline, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Schools, except school employees, and, after notifying the Superintendent of Schools, the Assistant Superintendent for Human Resources, and/or the School Committee of the complaint, the Commission shall (1) investigate the complaint by interviewing the complainant and any witnesses, (2) prepare written findings, and (3) recommend appropriate action to the Superintendent and/or School Committee as appropriate within 90 days of receipt of the complaint. The Commission/CDO, may in addition provide the complainant with information on complainant's options regarding dispute resolution and the boards, agencies, or courts to which the complainant may file a complaint. The Public Schools of Brookline are encouraged to engage the expertise and/or resources of the CDO/Commission~~

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~~when pursuing resolution of any such complaints and/or when revising policies and procedures relative to diversity and inclusion.~~

- (x) ~~Receive Other Complaints from any person who comes in contact with the Town, concerning allegations of discrimination or bias against a member of a Brookline Protected Class. After receiving such a complaint, the Commission shall (1) investigate the complaint by interviewing the complainant and any witnesses, (2) prepare written findings, and (3) recommend appropriate action to the Select Board within 90 days of receipt of the complaint. The Commission/CDO may in addition provide the complainant with information on complainant's options to bring proceedings at the Massachusetts Commission Against Discrimination or other appropriate federal, state, or local agencies.~~
- (vii) ~~The Commission shall develop, to the extent permissible by law, a log for the complaints referred to in subsections (v), (vi) above, provided that such publication contains public record information only and does not violate anyone's right to privacy, and the Commission shall compile and maintain statistical records regarding the nature of complaints, types of incidents, number and types of complaints, and other pertinent information, without identifying specific individuals, and include such information in the annual report filed with the Board pursuant to Section 3.14.6 of this By-law.~~
- (viii) ~~Develop official forms for the filing of complaints under paragraphs (v) and (vi) above and also procedures for the receipt of such complaints and follow-up by the Commission to the extent not inconsistent with the procedures set forth in paragraphs (v) and (vi);~~
- (ix) ~~Carry out the responsibilities and duties given to the Commission by rules or regulations, if any, promulgated under Section 3.14.4 of this By-law in relation to its Fair Housing responsibilities, as authorized by law, under By-law 5.5;~~
- (x) ~~With respect to any complaints or patterns of complaints involving the civil or human rights of any persons who come in contact with the Town, work with the CDO, in such officer's role as ombudsperson, to facilitate changes that will reduce and eliminate violations of rights;~~

(B) To carry out its responsibilities the Commission shall establish a Complaint Committee (CC) charged with investigating and receiving complaints, directly or through the Chief Diversity Officer (CDO). Complaints involving allegations of discrimination can be made by persons or organizations against the Town, its employees, agencies, or officials, or against

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another person or organization concerning incidents of discrimination occurring in Brookline. A third party may also file a complaint on a person or organization's behalf, or on behalf of a class of people. These complaints may involve, but are not limited to, employment, public accommodations, housing, policing, education, and provision of services, health care, or credit. Furthermore, this Bylaw shall be applicable to students, faculty and staff of the School Department to the extent permitted by federal law (including, but not limited to, Title IX).

- (i) The CC shall work with the CDO to provide flexibility for complainants, including reasonable accommodations and translators if needed for individuals with limited English proficiency or other communication and/or access issues.
- (ii) The CC shall consist of not more than 5 persons chosen by the Commission for one year renewable terms. The CC shall include attorneys or other individuals with applicable legal and/or civil rights experience as well as members of historically marginalized communities. Members of the CC must be residents of Brookline and at least one shall be a member of the Commission. The CC shall choose its Chair for one year renewable terms. The CDO and its staff shall be the staff for the CC.
- (iii) The CC shall create a complaint form but may receive complaints in any written form or orally. The CC shall take steps to publicize its procedures and encourage the public to file complaints if they believe they have been the subject of discrimination. Complaints may be received by any member(s) of the Commission, the CC, the CDO, or the staff member(s) within the ODICR, but shall be delivered to the CDO for logging in and preliminary investigation pursuant to Section 3.14.3(B)(iv). If an oral complaint is received, the complainant may edit the form and additional materials prepared by the person(s) receiving the complaint. During the initial receipt of the complaint and at any point thereafter, the CDO shall advise the complainant in writing of the right to file a complaint with the Massachusetts Commission Against Discrimination (MCAD), other appropriate Town departments, and other appropriate federal, state or local agencies in lieu of pursuing rights under this Bylaw, as well as the alternative dispute resolution options described in Section 3.14.3 (B)(ix). A copy of the complaint shall also be promptly given to the respondent who shall have 30 days to file an answer with the CC.
- (iv) The CDO shall, using written and published criteria developed with the CC, review each complaint to determine whether, assuming the allegations in the complaint are true, the complainant has established a plausible case of discrimination that falls within

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the jurisdiction of the CC. The review shall be completed in 30 days after receipt of the complaint unless the CDO determines an extension is necessary. The CDO shall notify the complainant and respondent of its plausible case determination or if an extension is necessary.

- (v) If the CDO determines that the complainant has not established a plausible case of discrimination, the complainant has 45 days to appeal the determination to the CC from the time of its receipt. This appeal will be heard by one member of the CC, and shall be completed within 30 days of receipt of the appeal.
- (vi) If the CDO's initial review or the complainant's appeal to the CC results in a determination of a plausible case of discrimination that falls within the jurisdiction of the CC, the CDO or its designee and one member of the CC shall investigate the complaint. The CC shall adopt and publish rules of procedure for its investigations. The investigation may typically involve interviews of the parties and witnesses, review of pertinent documents and videos, and review of other relevant sources. The results of the investigation shall be reported to the parties, including notice of their right to appeal, and the full CC. The complainant and respondent may elect to submit written documentation to also be submitted with the report to the CC. If the investigation concludes that no violation of this Bylaw has occurred, the CC shall dismiss the complaint, with notice to the complainant of their appeal rights. If the investigation concludes that the respondent has violated this Bylaw and no appeal is filed, the CC shall seek relief as set forth in Section 3.14.3(B) (viii)
- (vii) The complainant or respondent may appeal the results of the investigation within 45 days of receiving the investigation report. If appealed by either party, there will be an appeal hearing before a panel of 3 members of the CC chosen by its Chair and the hearing shall be held within 30 days of the appealing filing date. Based upon all of the evidence and information presented on appeal, the panel shall affirm or overturn the results of the investigation and report its decision to the parties and the full CC. If the panel reports to the CC that no violation of this Bylaw has occurred, the CC shall dismiss the complaint. If the panel reports to the CC that the respondent has violated this Bylaw, the CC shall seek relief as set forth in Section 3.14.3(B) (viii). The CC shall adopt and publish rules of procedure for its appeal hearings which shall include the right to due process.
- (viii) If, upon all the evidence, the CC shall find that a respondent has engaged in any violation of this Bylaw, the CC

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shall seek relief within 30 days of the panel's report, through one or more of the following actions:

(a) If the respondent is an employee, agent or official of the Town or the Town itself, the CC shall provide findings of fact and recommendations to the Select Board.

(b) If the respondent is a person or organization not described in subparagraph (a) above the CC may (through the Chief Diversity Officer) levy a civil fine of three hundred dollars (\$300) for each such violation or other such sum as allowed by law. Each day or separate violation of this Bylaw shall constitute a separate offense. Any such penalty or penalties shall be enforced through non-criminal disposition as set forth in G.L. c. 40 § 21D;

(ix) At any point during the proceedings, the parties may agree to submit the matters in dispute to alternative dispute resolution, including but not limited to mediation, arbitration, and restorative justice. The alternative dispute resolution may be conducted informally by the CDO or its designee, or formally by an impartial arbitrator appointed by the American Arbitration Association subject to their rules and procedures. The results of the alternative dispute resolution may be considered a binding agreement that could be enforced in a court proceeding, as may be permitted by law.

(x) The CC shall have the power to subpoena witnesses, compel their attendance, administer oaths, serve written interrogatories, take testimony of any person under oath, and require the production of any evidence and/or answers relating to any matter in question or under investigation before it. Witnesses shall be summoned in the same manner and be paid the same fees. Town departments and agencies shall cooperate as described in Section 3.14.5.

(xi) The CDICR and CC shall work with the CDO to facilitate changes, including taking appropriate corrective actions, that will reduce or eliminate violations of this by-law and the civil or human rights of persons or organizations who come in contact with the Town as reflected in the complaints or pattern of complaints filed with the CC.

(xii) The CDO shall develop, to the extent permissible by law, a log for complaints filed with the CC and render to the Select Board a written report of the activities and recommendations of its office and the Committee under this Bylaw quarterly. This report shall be made available to the public as may be consistent with the Massachusetts public records law.

(xiii) A person may not retaliate against another person who, in good faith, filed a complaint, testified, participated, or

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assisted in any way in a proceeding under this bylaw. A person may not intimidate a witness, complainant, or respondent in a proceeding before the Commission.

- (C) To carry out the foregoing responsibilities, the Commission is also authorized to work with community organizations, government and nonprofit agencies, educational institutions, persons with relevant expertise, and others to:
- (i) Develop educational programs and campaigns to increase awareness of human and civil rights, advance diversity and inclusion, eliminate discrimination, and ensure that the human and civil rights of all persons are protected and assist in the development of educational programs to further community relations and understanding among all people, including employees of all departments and agencies within the Town;
 - (ii) Conduct or receive research in the field of human relations and issue reports and publications on its findings or, where appropriate, submit local or state-wide proposed legislation, ~~after approval by the Select Board and review by Town Counsel,~~ to further human and civil rights of all persons who come in contact with the Town, provided that the Commission shall evaluate all such research conducted or received for its relevance and validity and for its openness to diverse viewpoints and perspectives;
 - (iii) Receive and review information on trends and developments in youth research, services, and programs, both generally and as they relate to youth who are members of a Brookline Protected Class, and consider the applicability of such research, services, or programs to Brookline, provided that the Commission shall evaluate all such research conducted or received for its relevance and validity and for its openness to diverse viewpoints and perspectives;
 - (iv) Do anything else deemed appropriate in the furtherance of its general duties and that are not inconsistent with its Mission, the State Constitution and laws, or the Town By-laws.
- (D) At least every two years, prepare written organizational goals for the Commission ("Commission's Goals") that are (i) specific, (ii) measurable, (iii) attainable with the resources and personnel of the Commission, (iv) relevant to the mission of the Commission, (v) designated as either short term or long term, and (vi) capable of being evaluated on a continuing basis and at the next goal setting point. The Commission's Goals shall be submitted to the Select Board at a public meeting and posted on the Town's website. The Commission shall receive and consider the comments of the Select Board at the

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public meeting and shall also receive and consider written comments from the community on the Commission's Goals.

SECTION 3.14.4 RULES AND REGULATIONS

In order to carry out the purposes and provisions of this By-law, the Commission, with the approval of the Select Board, after review by the Town Counsel, shall adopt procedural rules and regulations as necessary to guide it in carrying out its responsibilities. Such rules and regulations shall require that actions by the Commission be taken by a quorum or larger vote of the Commissioners and shall include procedures for holding regular public meetings, including at least one public hearing annually to apprise the public on the status of civil rights, diversity, inclusion and community relations in the Town and to hear the concerns of the public on those issues. The Commission may also establish procedures and rules and regulations to carry out its responsibilities with respect to Fair Housing, with the approval of the Select Board, after review by Town Counsel. Such rules and regulations may further provide for the governance of the Commission with respect to matters such as the appointments of committees as necessary to deal with specific community issues or concerns.

SECTION 3.14.5 INFORMATION, COOPERATION, AND DIALOGUE

~~The Commission shall notify the Town Administrator of all complaints it records. In the event that such complaints fall within the purview of the Superintendent of Schools, the Superintendent shall also be notified. All departments and agencies in the Town shall cooperate fully with the Commission's reasonable requests for information concerning such complaints and when appropriate engage with the Commission in a dialogue on them. All such requests and dialogue shall respect and protect, to the fullest extent possible, the privacy of all involved and shall comply with all local, state and federal laws.~~

The Director of Human Resources shall annually present a report to the Commission concerning the Town's statistics on employment diversity in Town departments and staff, as well as the efforts of the Town to increase the employment diversity of Town departments and staff. The School Superintendent and the Library Director, or their designees, shall annually provide a report to the Commission on their statistics on employment diversity, including but not limited to the most recently completed EEO-5 form. The Police Chief shall annually present a report to the Commission on other police matters that touch on the Commission's mission. The Commission may respond to such reports through dialogue and/or through written reports; and all Town departments, including the Brookline Public Schools, are encouraged to cooperate with the Commission as it reasonably requests.

SECTION 3.14.6 REPORT

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With the assistance of the Director, the Commission shall submit an annual report to the Select Board, the School Committee, and the Board of Library Trustees detailing its activities and the results thereof. This report shall include (i) a review of the implementation of the diversity and inclusion policy by the Town, (ii) the Commission's Goals and a report on the extent to which the goals have been achieved to that point, (iii) a review of reports received by the Commission from the Director of Human Resources, the School Superintendent, the Library Director, and other Town departments or agencies, (iv) a narrative discussion of any impediments to the implementation and achievement of the Commission's Goals and its diversity and inclusion policy, and (v) recommendations of ways that such impediments could be removed. A synopsis of such report shall be published as part of the Annual Report of the Town.

SECTION 3.14.7 FIVE YEAR REVIEW

Beginning no later than July 1, 2019 and at least every five years thereafter, the Commission shall review this By-law and any other related Town by-laws, in consultation with other pertinent departments, and propose changes if necessary, by preparation of appropriate Warrant Articles for consideration by Town Meeting.

~~**SECTION 3.14.8 EFFECTIVE DATE OF DECEMBER 12, 2019 AMENDMENTS**~~

~~The amendments, as indicated in strikethrough, bold and underlined, adopted on December 12, 2019, become effective July 1, 2021.~~

SECTION 3.14.8 SEVERABILITY

The provisions of this By-law shall be deemed to be severable. Should any of its provisions be held to be invalid or unconstitutional, the remainder shall continue to be in full force and effect.

SECTION 3.14.9 RESOLUTION OF CONFLICTING PROVISIONS

In case of any conflict between this By-law and other By-laws, the Provision(s) last adopted by Town Meeting shall prevail.

SECTION 3.14.10 APPLICATION OF THIS BY-LAW

Should any remedies in this By-law conflict with grievance or dispute resolution procedures in collective bargaining agreements with the Town's unions, the provisions of the collective bargaining agreements shall apply so long as all members of Brookline Protected Classes are protected.