

City of Northampton, Massachusetts
Human Resources Department

Effective Date: 8/24/2023

Whistleblower Protection Policy & Procedures

The City of Northampton requires all employees to observe the highest standards of business and personal ethics in the conduct of their duties and responsibilities. Employees of the City of Northampton (City) must practice honesty and integrity in fulfilling their responsibilities and comply with the Massachusetts Public Employee Whistleblower Act (M.G.L. Part I, Title XXI, Ch. 149, Section 185).

This Policy is intended to encourage and enable employees to raise serious concerns internally so that the City can address and correct inappropriate conduct and actions.

It is the policy of the City: (a) To encourage the reporting by its employees of Improper Governmental Action(s); and (b) To protect City employees who have reported Improper Government Action(s) in accordance with this policy.

The City encourages initial reporting to the City to allow for expeditious resolution of all such matters, to give the City a reasonable opportunity to investigate and correct any Improper Government Action(s), and to minimize any adverse impacts of the improper action.

Definitions:

Definitions. As used in this policy, the following terms shall have the meaning indicated:

(1) "Employee", any individual who performs services for and under the control and direction of the City of Northampton for wages or other remuneration.

(2) "Employer", is the commonwealth, and its agencies or political subdivisions, including, but not limited to, the City of Northampton and cities, towns, counties and regional school districts, or any authority, commission, board or instrumentality thereof.

(3) "City" is the City of Northampton.

(4) "Public body", is (A) the United States Congress, any state legislature, including the general court, or any popularly elected local government body, or any member or employee thereof; (B) any federal, state or local judiciary, or any member or employee thereof, or any grand or petit jury; (C) any federal, state or local regulatory, administrative or public agency or authority, or instrumentality thereof; (D) any federal, state or local law enforcement agency, prosecutorial office, or police or peace officer; or (E) any division, board, bureau, office, committee or commission of any of the public bodies described in the above paragraphs of this subsection.

(5) "Supervisor", is any individual to whom the City of Northampton has given the authority to direct and control the work performance of the affected employee, who has authority to take

corrective action regarding the violation of the law, rule or regulation of which the employee complains, or who has been designated to receive complaints under this policy. Supervisors include but are not exclusive of Department Heads, the Director of Human Resources, and the Mayor.

(6) “Retaliatory action” is the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment for reporting an Improper Governmental Action in accordance with this policy.

(7) “Improper Governmental Action(s)” are illegal actions, regulatory violations, health and safety violations, and environmental hazards committed by the City or by another Employer with whom the City has a business relationship. Examples of Improper Governmental Action include, but are not limited to, billing for services not performed or for goods not delivered, using City funds for personal benefit, accepting kickbacks, or other fraudulent financial reporting.

(8) A “Whistleblower” is defined by this policy as an employee who in good faith report(s) or threaten(s) to report illegalities, regulatory violations, health and safety violations, and environmental hazards committed by the City or by another employer with whom the City has a business relationship. A whistleblower is not responsible for investigating the activity or for determining fault or corrective measures. The Director of Human Resources or other Supervisors are charged with those responsibilities.

Reporting Procedure

City employees who obtain knowledge of facts demonstrating Improper Governmental Actions should raise the issue with their immediate Supervisor, Department Head, or directly with the Director of Human Resources. All Supervisors and Department Heads who receive complaints, whether directly from an employee or indirectly from another Supervisor, are required to report those complaints in writing to the Director of Human Resources. If requested by the Director of Human Resources, the employee shall submit a written report to the City stating in detail the basis for the employee’s belief that an Improper Governmental Action has occurred.

An employee is not required to comply with the above procedure if they:

- A) are reasonably certain that the activity, policy or practice is known to one or more supervisors of the City and the situation is emergency in nature;
- B) reasonably fear physical harm as a result of the disclosure provided;
- C) or make the disclosure to a public body for the purpose of providing evidence of what the employee reasonably believes to be a crime.

City employees who fail to make a good-faith attempt to follow this policy in reporting Improper Governmental Action(s) may not receive the protections provided under M.G.L. Chapter 149, Section 185. Employees who make false reports may be subject to the disciplinary up to and including termination as provided for in the City’s policies and any applicable labor agreement governing that employee’s employment.

City Response Procedure:

After receiving a complaint/report of alleged Improper Governmental Action(s), the City shall take prompt action to investigate. After an investigation has been completed, the Whistleblower may be generally advised of the results of the investigation. However, there are instances where certain outcomes may not be shared. By way of example, where personnel actions are taken as a result of an investigation that information is often protected from disclosure on privacy grounds.

Retaliatory Action:

Employees are protected from Retaliatory Action taken as a result of their:

- (1) Whistleblowing activity;
- (2) Providing information to, or testifying before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law, or activity, policy or practice which the employee reasonably believes poses a risk to public health, safety or the environment by the employer or public utility employer, or by another employer or public utility employer with whom the employee's employer or public utility employer has a business relationship; or
- (3) Objecting to, or refusing to participate in any activity, policy or practice which the employee reasonably believes is in violation of a law, or a rule or regulation promulgated pursuant to law, or which the employee reasonably believes poses a risk to public health, safety or the environment.

The protection against retaliatory action provided above shall not apply to an employee who engages in #1 or #2, above, unless the employee has provided written notice of the alleged Improper Governmental Action(s) as provided under the reporting procedures of this policy and has afforded the City a reasonable opportunity to correct any prohibited activities, policies or practices.

City officials, administrators, Department Heads, Supervisors and employees who are found to have taken retaliatory action against a Whistleblower because they have, in good faith, reported Improper Governmental Action(s) in accordance with this policy are subject to discipline, up to and including termination.

Responsibilities of Supervisors and Management:

The Director of Human Resources is responsible for implementing the City's policies and procedures. They will ensure this policy is permanently posted on the City's website, where all employees will have reasonable access to it and will also have this policy available to any employee upon request. They will, to the extent they consider practical, provide training and education on the whistleblower policy.

The Director of Human Resources will advise the Mayor, or the Mayor's designee, on all complaints and their resolution, and will report at least annually to the Mayor, or the mayor's designee, on compliance activity relating to complaints brought under this policy.

Supervisors are responsible for ensuring that this policy is fully implemented within their areas of responsibility. Failure of a Supervisor to follow this policy may result in discipline up to and including termination as provided for in the City's policies and any applicable labor agreement governing that Supervisor's employment.



Charles Dunham, Director of Human Resources

8/24/23

Date



Mayor Gina-Louise Sciarra

8/24/23

Date