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12/12/06*

TOWN of BROOKLINE

Massachusetts

Anti-Retaliation Policy

(Whistleblower of violations of law or risk to public health, safety or the environment)

In Accordance with the Massachusetts Anti-Retaliation statute, provided in M.G.L., Ch. 149, § 185, the Town of Brookline, including the Brookline School Department (hereinafter, the "Town") shall not take retaliatory action against an employee of the Town because the employee does any of the following:

1. Discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the Town, or of another employer with whom the Town has a business relationship, that 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;
2. Provides information to, or testifies 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 by another employer with whom the Town has a business relationship; or
3. Objects to, or refuses 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.

Notice to Town - In order to be protected against retaliatory action for acts described in # 1 above, the employee must provide a supervisor with written notice of the violation and afford the Town a reasonable opportunity to correct the alleged violation.

Exception: An employee is not required to provide written notice if:

1. He/she is reasonably certain that the activity, policy or practice is known to one or more supervisors of the Town and the situation is emergency in nature;
2. He/she reasonably fears physical harm as a result of the disclosure provided; or
3. the employee, for the purpose of providing evidence of what he/she reasonably believes to be a crime, makes the disclosure to either:
 - a. a federal, state or local judiciary, or any member or employee thereof, or any grand or petit jury; or
 - b. a federal, state or local law enforcement agency, prosecutorial office, or police or peace officer.

Key Terms – For purposes of this policy, the following words have the following meanings:—

- "Employee" means any individual who performs services for and under the control and direction of the Town for wages or other remuneration.

- "Employer" means the commonwealth, and its agencies or political subdivisions, including, but not limited to, cities, towns, counties and regional school districts, or any authority, commission, board or instrumentality thereof.
- "Public body" means-
 - the United States Congress, any state legislature, including the general court, or any popularly elected local government body, or any member or employee thereof;
 - any federal, state or local judiciary, or any member or employee thereof, or any grand or petit jury;
 - any federal, state or local regulatory, administrative or public agency or authority, or instrumentality thereof;
 - any federal, state or local law enforcement agency, prosecutorial office, or police or peace officer; or
 - any division, board, bureau, office, committee or commission of any of the public bodies described in the above paragraphs of this subsection.
- "Retaliatory action" means - the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.
- "Supervisor" means any individual to whom the Town has given the authority to direct and control the work performance of the affected employee or who has authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains or any of the following persons or their successors:

Richard Kelliher, Town Administrator
 Town Hall, 333 Washington Street
 Brookline, MA 02445

Bill Lupini, Superintendent
 Brookline Public Schools
 Town Hall, 333 Washington Street
 Brookline, MA 02445

Sandra DeBow
 Human Resources Director
 Town Hall, 333 Washington Street
 Brookline, MA 02445
 (617) 730-2120

Stephen Barrasso
 Human Resources Director
 Town Hall, 333 Washington Street
 Brookline, MA 02445
 (617) 730-2405

False Accusations – The Town of Brookline also realizes that false accusation can have a serious effect on innocent employees. Just as the Town will not tolerate any retaliation against employees making reports in good faith, the Town will not tolerate any false complaints. If after investigation, it is clear that an employee who has accused another of engaging in unlawful activity has made the false accusation knowingly or without any good faith basis thereof, the accuser will be subject to disciplinary action, up to and including termination of employment.

Legal Action - Employees aggrieved by a violation of the law may institute civil action in the Superior Court in accordance with M.G.L. c. 149 §185 within two years of the alleged violation. Pursuant to M.G.L. c. 149, §185(f), an employee who institutes such a civil action shall be deemed to have waived any rights such an employee may have under any collective bargaining agreement, contract, common law, or any other state law, rule or regulation.

Posting - This policy shall be posted in common designated posting areas, the Town's Intranet, and in the Human Resources Department.