WHISTLEBLOWERS PROTECTION POLICY

I. GENERAL

The Fairbanks North Star Borough is committed to an environment that is free from public health and safety hazards, illegal conduct, fraud, and/or abuse. This policy establishes uniform procedures and guidelines for the administration and processing of protected disclosures made by employees under the whistleblowers protection laws and identifies protections for employees making such claims. No negative employment action will be taken against an employee for making a protected disclosure under this policy.

II. PURPOSE

To ensure that all employees understand the FNSB policy on protected disclosures and identify the process for reporting and investigating internal complaints.

III. RESPONSIBILITY

A. Department directors shall ensure that their department staff follows the procedure set forth in this policy.

B. Compliance with this policy is the responsibility of each director, manager, supervisor, and others whose duties are related to any employee personnel actions.

C. Human Resources shall maintain this policy.

IV. POLICY

A. This policy shall be in accordance with Section 2.32.350, Borough Code of Ordinances, and applicable State and Federal laws.

B. The Fairbanks North Star Borough will not retaliate against a whistleblower. This includes, but is not limited to, protection from retaliation in the form of an adverse employment action such as termination, compensation decreases, poor work assignments, or threats of physical harm. Any whistleblower who believes he/she is being retaliated against, must contact the EEO/Compliance Officer immediately. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing that is investigated and substantiated.

C. Whistleblower protections are provided in two important areas -- confidentiality and retaliation. Insofar as possible, the confidentiality of the whistleblower will be maintained. However, identity may have to be disclosed to conduct a thorough investigation, to comply with the law, and to provide accused individuals their legal rights of defense.
D. Persons Protected.

1. The borough may not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because:
   a) The employee, or a person acting on behalf of the employee, reports to a public body or is about to report to a public body a matter of public concern; or
   b) The employee participates in a court action, an investigation, a hearing, or an inquiry held by a public body on a matter of public concern.

2. The borough may not disqualify an employee or other person who reports a matter of public concern or participates in a proceeding connected with a matter of public concern before a public body or court, because of the report or participation, from eligibility to bid on contracts with the borough, receive land under a borough ordinance, or receive another right, privilege, or benefit.

3. The provisions of this policy do not:
   a) Require the borough to compensate an employee for participation in a court action or in an investigation, hearing, or inquiry by a public body;
   b) Prohibit the borough from compensating an employee for participation in a court action or in an investigation, hearing, or inquiry by a public body;
   c) Authorize the disclosure of information that is legally required to be kept confidential; or
   d) Diminish or impair the rights of an employee under a collective bargaining agreement.

E. Limitation to Protections.

1. A person is not entitled to the protections under this policy unless the person reasonably believes that the information reported is or is about to become a matter of public concern and reports the information in good faith.

2. A person is entitled to the protections under this policy only if the matter of public concern is not the result of conduct by the person seeking protection or is the result of conduct by the person that was required by the person's employer.

3. Before an employee initiates a report to a public body on a matter of public concern under this policy, the employee shall submit a written report concerning the matter to the Borough Mayor. However, the employee is not required to submit a written report if the employee reasonably believes that reports to the employer will not result in prompt action to remedy the matter of public concern; believes with reasonable certainty that the activity, policy, or practice is already known to the mayor; reasonably believes that an emergency is involved; or reasonably fears reprisal or discrimination as a result of disclosure. The protections of FNSB 2.32.350(A) apply to reports made to the Borough Mayor under this policy.
F. Relief and Penalties.
   1. A person who alleges a violation of this policy may bring a civil action and the court may grant appropriate relief.
   2. A person who violates or attempts to violate this policy is also liable for a civil fine of not more than ten thousand dollars ($10,000.00).

V. PROCEDURE

A. If an employee has knowledge, or a reasonable and good faith belief, of activity that is or may become a matter of public concern, the employee shall make a written complaint as soon as practicable to the Mayor or the EEO/Compliance Officer, unless exempted by this policy. The Mayor or the EEO Compliance/Officer will promptly communicate the complaint to the appropriate department for investigation and coordination of any necessary corrective action.

B. The written complaint, shall, at a minimum, include the following information:
   1. Contact information from the party making the complaint, and an original signature.
   2. The alleged infraction or reason (basis) for the complaint.
   3. Any relevant information, or evidence of the alleged infraction.
   4. Any witnesses or other persons who may have knowledge or information that will assist in the investigation process.

C. The whistleblower is not responsible for investigating the alleged illegal or dishonest activity, determining fault, or implementing corrective measures. Appropriate management officials shall fulfill these responsibilities.

D. Examples of matters of public concern include but are not limited to violations of federal, state or local laws; billing for services not performed or for goods not delivered; and other fraudulent financial reporting. The employee must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing will be subject to disciplinary action.

VI. SUPPLEMENTAL INFORMATION

A. References –
   1. FNSB Code 2.32.350 - Protection for Whistleblowers
   2. AS 39.90.100-150

B. Definitions –
   1. "Whistleblower" as defined by this policy is an employee who reports to one or more of the parties specified in this Policy, an activity that he/she considers to be a matter of public concern.
2. "Employee" or "public employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied, for the borough;

3. "Matter of public concern" means
   a. A violation of a state, federal, or municipal law, regulation, or ordinance;
   b. A danger to public health or safety; or
   c. Gross mismanagement, a substantial waste of funds, or a clear abuse of authority;

4. "Public body" includes an officer or agency of
   a. The federal government;
   b. The state;
   c. A political subdivision of the state including another municipality or a school district;
   d. A public or quasi-public corporation or authority established by state law including the Alaska Railroad Corporation; and
   e. The University of Alaska.

C. Resources (See Also):
   1. AS 18.80.220 (Unlawful Employment Practices)
   2. AS 18.60.010-105 (Occupational Health and Safety)
   3. AS 23.10.135(6) (Wage and Hour)
   4. AS 23.30.247 (Workers’ Compensation)

D. Attachments – None

E. Revision History

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