



CITY OF LOWELL

EMPLOYMENT PROTECTION - CONSCIENTIOUS EMPLOYEES POLICY

Governor William Weld recently signed into law, "An Act to Protect Conscientious Employees," which took effect on April 13, 1994. Under the new Law, an employer is prohibited from taking any "retaliatory action" against an employee who engages in any of the following activities:

- 1) Disclosing to a supervisor or public body an activity, policy or practice of the employer (or of another employer with whom the employee's employer has a business relationship) that the employee reasonably believes is in violation of law or which the employee reasonably believes poses a risk to public health, safety or the environment;
- 2) Providing information to or testifying before any public body conducting an investigation, hearing, or inquiry into any violation of law or any activity, policy or practice which the employee reasonably believes is in violation of a law or poses a risk to public health, or the environment.
- 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 poses a risk to public health, or the environment.

Retaliatory Action means the discharge, suspension or demotion of an employee or any other adverse employment action taken against any employee in the terms and conditions of employment.

In order for an employee to be entitled to protection against retaliation, an employee must:

Bring the activity, policy, or practice in question to the attention of their supervisor by written notice and afford the employer reasonable opportunity to correct the activity, policy or practice.

No written notice shall be required if the employee:

- a) is reasonably certain that the activity, policy, or practice is known to one or more supervisors and the situation is an emergency;
- b) reasonably fears physical harm as a result of the disclosure; or
- c) makes the disclosure to any federal, state, or local judiciary (or an employee or member thereof) or law, enforcement agency, prosecutorial office, or police or peace officer for the purpose of providing evidence of what the employee reasonably believes to be a crime.

Remedy for employees or former employees:

An employee or former employee who has been subject to the prohibited retaliation has the right to bring a civil action within two years of the employer's violation of the action. Trial by jury is provided and ("all remedies available in common law court actions" are available to prevailing employees. Damages for loss of wages as well as emotional distress may be recovered. The Court may issue a temporary restraining order or any injunction to prevent a continued

violation of the statute; reinstate full fringe benefits and seniority rights to the employee; compensate the employee for three times the lost wages, benefits, and "other remuneration, and interest on such amount; and order the employer to pay costs and attorney's fees.

Actions without basis:

Employees may be required to pay the employer's costs and attorneys' fees and "if the court finds the employee's action was without basis in law or fact". There is an exception to this provision if the employee, after exercising reasonable and diligent efforts after filing suit, moves to dismiss the action against the employer or agrees to a voluntary dismissal within a reasonable time after determining that the employer would not be found liable for damages.

Written notifications of the activity, policy or practice which the employee reasonably believes is in violation of law or poses a risk to public health, safety or the environment shall be sent to the Human Relations Manager, City Hall, Room 19, Lowell, MA 01852.