

PERSONNEL

POLICIES AND PROCEDURES

FOR THE

TOWN OF HUBBARDSTON



PERSONNEL POLICIES & PROCEDURES
For The
Town of Hubbardston

Table of Contents

<u>POLICY</u>	<u>PAGE</u>
100 General Provisions	1-7
101 Authorization	1
102 Distribution of Manual	1
103 Purpose	1
104 Definitions	2
105 Amendments	7
106 Human Resources Advisory Board	7
200 Recruitment and Hiring	8-13
201 Posting and Advertising	8
202 Equal Employment Opportunity	8
203 Screening/Interviewing	9
204 Employment Applications	9
205 Employment Reference Checks	9
206 Employment Eligibility	10
207 Offer of Employment	10
208 Hiring Documentation	11
209 Pre-Employment Physicals	11
210 Orientation	12
211 Probationary Period	12
212 Personnel Data Changes	13

PERSONNEL POLICIES & PROCEDURES
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Table of Contents

<u>POLICY</u>	<u>PAGE</u>
300 General Administration	14-23
301 Classification and Compensation Plan	14
302 Wage and Salary Increases	15
303 Job Descriptions and Classifications	17
304 Time Keeping	18
305 Pay Procedures	18
306 Overtime	19
307 Compensatory Time	19
308 Holidays and Holiday Pay	19
309 Insurance Benefits	20
310 Workers Compensation/Injury on Duty	20
311 Personnel Records	21
312 Resignation	23
 400 Standards of Conduct	 24-42
401 General Conduct and Standards	24
402 Disciplinary Action	25
403 Non-Discrimination	26
404 Americans with Disabilities Act	27
405 Grievance Procedure	27
406 Sexual Harassment	28
407 Commercial Driver's License (CDL) Alcohol and Drug Testing Policy	31
408 Drug Free Workplace	38
409 Smoking in the Workplace	39

Table of Contents, Continued

<u>POLICY</u>	<u>PAGE</u>
400 Standards of Conduct (continued)	
410 Conflict of Interest/Financial Disclosure	40
411 Bulletin Boards, Department & Employee Mailboxes	40
412 Computer, Electronic Mail and Internet Use	40
413 Employee Guidelines for Use of Social Media Sites	40
414 Use of Equipment	44
415 Return of Property	45
416 Attendance and Punctuality	46
500 Leave Policies	46-53
501 Civic Duty Leave	46
502 Military Leave	47
503 Bereavement Leave	47
504 Non-Occupational Sick Leave	47
505 Maternity Leave	49
506 Vacation Policy	50
507 Small Necessities Leave	51
508 Family and Medical Leave	52
509 Personal Leave	53
510 Special Leave	53
511 Other Leave of Absence	53
Attachments	55-107
A. Open Meeting Law	56
B. Social Media Policy	84
C. Conflict of Interest Law	89
D. Public Records Law	102
E. Acknowledgement of Receipt of Personnel Policies	107

PERSONNEL POLICIES & PROCEDURES
For The
Town of Hubbardston

100 GENERAL PROVISIONS

101 Authorization

These Policies and Procedures are adopted pursuant to the Town of Hubbardston By-Laws, Chapter XXVIII, PERSONNEL, as amended. All Town departments and positions are subject to the provisions of the personnel system except officials elected by popular vote, employees under the direction -and control of the School Committee, employees covered by a collective bargaining agreement, contract employees, and those who serve on voluntary boards and committees. The Human Resources Advisory Board, a five-person board appointed by the Selectboard, establishes and maintains the personnel system and develops policies related to it, which are submitted for adoption by the Selectboard.

In the case of a conflict between the provisions of these policies and the provisions of any collective bargaining agreement or contract, the provisions of the collective bargaining agreement or contract shall prevail for bargaining unit members or contract employees.

102 Distribution of Manual

All employees are issued the Hubbardston Personnel Policy Manual in its entirety. All employees shall be familiar with the contents of the manual.

The Human Resources Advisory Board may, from time to time, issue updated pages for the Manual to all employees. It is the responsibility of each employee to insert updated pages in his or her copy of the Manual as they are received.

103 Purpose

The purpose of these policies is to establish a fair and equitable system of personnel administration based on principles that ensure a uniform, fair, and efficient application of personnel policies.

It is not the intent of the Town to grant any employee any contractual commitment, express or implied, by the promulgation of personnel policies. Rather, the policies are intended to inform employees of the conditions of their employment, the Town's expectations of their employment, and the benefits offered by the Town to its employees.

104 Definitions

As used in this Policy Manual, the following words and phrases shall be defined as indicated unless the context clearly requires otherwise:

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl.

Alcohol concentration: The alcohol in a volume of breath, expressed as grams of alcohol per 210 liters of breath, as indicated by an evidential breath test such as a Breathalyzer.

Alcohol use: The consumption of a beverage, mixture, or preparation, including medications, containing alcohol.

Americans with Disabilities Act (ADA): The federal law enacted in 1990 to ensure non-discrimination in employment against qualified individuals with disabilities.

Anniversary date: The anniversary date is one year after the date of initial employment and annually thereafter. An employee who has been on authorized leave of absence for more than 30 days shall have his/her anniversary date delayed by the number of days between employments. An employee who is re-employed after terminating employment for a period of more than 30 days shall have his/her anniversary date delayed by the number of days between employments.

Appointing Authority: The Town Administrator is the Appointing Authority for all positions except Library positions. The Library Board of Trustees is the Appointing Authority for classified Library positions.

Authorized Position: Any position established in the Classification System of the Town. Categories of positions are as follows:

Full time with benefits: An employee who works at least 40 hours per week throughout the year. The employee receives all benefits.

Part time with benefits: Part-time with benefits: An employee who works an average of at least 20 hours per week throughout the year. A part-time employee with benefits will receive sick, vacation, holiday and personal time, but pro-rated based on the average number of hours worked per week. Any employee whose hours regularly involve work for more than one department shall charge any sick, vacation, holiday or personal time to each department on a pro-rated basis even if the time off falls on a day when the employee would have been working for only one department, or would not be working at all.

Example: Employee A works a total of 12 hours on Monday and Wednesday for one department and 8 hours on Tuesday for another department, for a total of 20 hours per week. Since the employee works half-time, he or she would be entitled to be paid for 4 hours for each qualifying day off (a full workday being considered 8 hours). This employee would charge the first department 60% and the second department 40% of the pay due for each qualifying day off, regardless of which day of the week is the non-worked day.

Part time positions without benefits:

Casual part-time: An employee hired for irregular or occasional employment for an hourly rate or fee.

Seasonal or temporary part-time: An employee hired for a specific period of time (not to exceed 6 months).

Part time employees who work an average of less than 20 hours per week through the year.

Breath Alcohol Technician (BAT): An individual who instructs individuals in the alcohol testing process and operates an Evidential Breath-Testing (EBT) device.

Bylaw: The Personnel Bylaw adopted by the Town.

Classification Plan: An orderly assignment of positions into a system of Grades based upon an analysis of their duties, responsibilities, complexity, knowledge and skills required. The same schedule of pay is applied to all positions in the same Grade.

Compensatory Time: Time off in lieu of wages for hours worked in excess of an employee's normally scheduled work hours, per day or per week, depending upon work location and collective bargaining agreement.

Confirmation Test, Alcohol: A second test, following a screening test with a result of 0.02 or greater that provides quantitative measurement of alcohol concentration.

Concentration Test, Drug: A second test to identify the presence of a specific drug or metabolite. In order to ensure reliability and accuracy, this test is separate from and uses a different technique and chemical principle than that of the alcohol-screening test.

Continuous Employment: Employment uninterrupted except for required military service and for authorized vacation, sick leave, bereavement leave, court leave, or other authorized leave of absence.

Controlled Substances: Used interchangeably with the term "drugs" and, unless otherwise provided, refers to marijuana, cocaine, opiates, phencyclidine (PCP), and/or amphetamines (including methamphetamines).

Department: An operating unit of Town government funded through one or more budget categories and under the supervision of a single individual. The Library Department is under the supervision of the Library Trustees.

Department Head: The employee responsible for the administration and operation of a Town department, who reports directly to the Selectboard (or to the Board of Library Trustees).

Discrimination: The unequal treatment or categorization of individuals on any basis other than individual merit such as race, color, sex, age, religion, marital status, national origin, sexual orientation, or disability.

Driver: Any person who operates a commercial motor vehicle (CMV) including:

- Full-time, regularly employed drivers
- Leased drivers
- Independent, owner-operator contractors who are either

directly employed by or under contract to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer.

- Casual, intermittent or occasional drivers

Emergency Situation: A state declared by the Selectboard, the State or Federal Government to allow extraordinary measures to be taken to preserve the public safety or welfare.

Evidential Breath Testing (EBT) Device: A device used for alcohol breath testing that has been approved by the National Highway Safety Administration.

Exempt Employee: A salaried employee who is employed in an executive, administrative, or professional capacity and is not generally entitled to overtime pay if s/he meets criteria defined by the Federal Fair Labor Standards Act, 29USC Sections 201-216 and 29CFR 541.

Employee: Any individual who performs services for and under the control and direction of an employer for wages or other remuneration.

Employer: The Town of Hubbardston.

Employment At-Will: The employee may be discharged at any time and for any reason and that key employment terms such as salary, bonus, benefits, title, duties and status can be changed at the employer's discretion.

Equal Opportunity: A course of action that ensures that hiring and other employment decisions are made solely on an individual's merit and qualifications, without regard to race, color, sex, age, religion, marital status, national origin, sexual orientation, or disability.

Grade: The numerical rank of a position based on the application of a standardized point system that assesses job content.

Grievance: A complaint or dispute between an employee and the Town relating to the application or interpretation of the Personnel Bylaw or Policies and Procedures.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program. The MRO must have knowledge of substance abuse disorders and appropriate medical training

to interpret and evaluate an individual's confirmed positive test, medical history, and other relevant biomedical information.

Municipal Building: Any building that is owned by or under the control of the Town, including but not limited to schools, fire stations, police stations, DPW Buildings, and other Town Offices.

Municipal Vehicle: Those automobiles, trucks, vans, or other self-propelled equipment owned, rented, or leased by the Town and licensed for travel on a public way.

Non-Exempt Employee: An employee whose primary duty is not executive, administrative, or professional in nature. A non-exempt employee is entitled to overtime pay under certain conditions.

Overtime: Hours worked by non-exempt employees beyond forty (40) hours in a given workweek.

Overtime Pay: Calculated at 1 1/2 times the non-exempt employee's regular hourly base rate of pay (plus any applicable shift differential).

Pay Range: The dollar amount between minimum and maximum in any pay grade.

Pay Step: A rate of pay within a pay range established for a grade. From the minimum to the maximum pay rate of a grade there may be several pay Steps.

Pay Period: The normal two week work period for Town employees which begins on a Thursday and ends on a Wednesday.

Public Safety Position: Any position included in the Fire Department, Police Department, Civil Defense or any ambulance attendant, Emergency Medical Technician, or any similar position. DPW employees are considered to be public safety employees in certain weather related or other emergency situations.

Personal Leave: An authorized period or absence from work, with pay, approved by the Department Head to enable an employee to take care of personal business.

Probationary Period: Each new employee shall be required to complete successfully a six (6) month probationary period. Such employee will serve at-will during the probationary period.

Screening Test, Alcohol: The initial test to determine if an employee has a prohibited concentration of alcohol in his or her system.

Screening Test, Drug: An initial screen to eliminate 'negative' urine specimens from an employee from further consideration.

Substance Abuse: Refers to the patterns of substance use that result in negative health consequences or impairment in social, psychological, and occupational functioning.

Substance Abuse Professional: A licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders

Termination: Separation from Town employment initiated by the employer.

Town: The Town of Hubbardston.

105 Amendments

These policies may be amended as provided in Chapter XXVIII, Section 5 of the Town Bylaw.

106 Human Resources Advisory Board

The Human Resources Advisory Board is responsible for policy development of the personnel system. The Human Resources Advisory Board may provide assistance and training to appointing authorities and Department Heads to ensure that recruitment, selection, appointment and retention of employees, maintenance of the Classification and Compensation Plan, application and periodic review of personnel policies, and administration of a problem resolution system are accomplished in ways that are consistent with the Town of Hubbardston Personnel Bylaw and the policies outlined in this document. The Human Resources Advisory Board shall supervise the maintenance of a centralized personnel record keeping system. The Human Resources Advisory Board shall bring to the Town Administrator's attention issues or matters requiring their attention in the administration of these policies.

PERSONNEL POLICIES & PROCEDURES

For The Town of Hubbardston

200 RECRUITMENT AND HIRING

201 Posting and Advertising of Vacancies

The Town provides employees an opportunity to indicate their interest in open positions and to advance their employment status within the Town according to their skills and experience.

In general, notices of all regular, full-time and part-time job openings are posted. Job openings may be posted in-house, in local newspapers, and/or in other recruiting methods determined by the Town Administrator or his/her designee. Job posting is a way to inform employees of openings and to identify qualified and interested applicants who might not otherwise be known to the Department Head. Other recruiting sources may also be used to fill open positions in the best interest of the Town.

Each job posting notice will include the dates of the posting period (minimum of seven days), deadline for applications to be submitted, job title, department, location, job summary, essential duties, and qualifications.

The Town recognizes the benefit of developmental experiences and encourages employees to talk with their supervisors about their career plans. Supervisors are encouraged to support employees' efforts to gain experience and advance within the organization.

An internal applicant's supervisor may be contacted to verify performance, skills, and attendance. Any staffing limitations or other circumstances that might affect a prospective transfer may also be discussed.

202 Equal Employment Opportunity

In order to provide equal employment and advancement opportunities to all individuals, employment decisions for the Town will be based on merit, qualifications, and abilities. The Town does not discriminate in employment opportunities or practices on the basis of race, color, sex, age, religion,

marital status, national origin, sexual orientation, or disability.

The Town will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship. This policy governs all aspects of employment, including selection, job assignment, compensation, discipline, termination, and access to benefits and training.

Any employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor or the Human Resources Advisory Board. Any employee viewing or having direct knowledge of any type of discrimination in the workplace is required to bring these issues to the attention of their immediate supervisor or the Human Resources Advisory Board. Employees can raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

203 Screening/Interviewing

The Appointing Authority/Department Head will screen resumes and applications based on criteria established prior to receipt of applications. Appointing Authorities and Department Heads should follow standard procedures when screening resumes and conducting interviews.

204 Employment Applications

All applicants for Town employment must complete a standard Town employment application. Resumes may be accepted as supplements to the application, but not as substitutes. The Town relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process and employment. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in the Town's exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

205 Employment Reference Checks

To ensure that individuals who are employed by the Town are well qualified and have a strong potential to be productive and successful, it is the policy of the Town to check the employment references of all applicants.

The Town will respond to all reference check inquiries from other potential employers. Responses to such inquiries will be limited to validating dates of employment. No other employment data will be released without a written authorization and release signed by the individual who is the subject of the inquiry. See Personnel Records Policy for additional information.

206 Employment Eligibility

The Town is committed to employing only United States citizens and aliens who are authorized to work in the United States, and does not unlawfully discriminate on the basis of citizenship or national origin.

In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the form if they have not completed an I-9 with the Town within the past three years, or if their previous I-9 is no longer retained or valid.

Employees with questions or seeking more information on immigration law issues are encouraged to contact the Human Resources Advisory Board. Employees may raise questions or complaints about immigration law compliance without fear of reprisal.

207 Offer of Employment

All offers of employment, including those for original hire, promotion, or reinstatement after suspension or leave shall be made in writing by the Town Administrator and shall include the pay rate, starting date and any appropriate additional information. This written offer will be retained in the employee's personnel file. Offers of employment will be made for an indefinite period, annually or for a period of time explicitly authorized by State and/or Federal statute or Town policy.

Part-time, seasonal, temporary and some full time employees may be hired for an indefinite period or for shorter periods at the discretion of the Town Administrator. Offers of employment for a definite period of time can only be terminated for cause, although extensions may be granted at the discretion of the Selectboard. Offers of at-will employment for an indefinite period may be terminated at any time for any reason at the discretion of the Town Administrator.

208 Hiring Documentation

The Town requires certain documentation to be completed by an individual who has been offered employment with the Town prior to that individual's first day of work.

Full Time/ Part Time Benefited Employees

Required Forms:

1. W-4 Tax Withholding Form
2. M4 Tax Withholding Form
3. Employment Eligibility Form (I-9)
4. Worcester County Retirement Enrollment Form
5. Emergency Contact Form
6. Health Insurance/HIRD Forms
7. Code Red Contact Info Form

Optional Forms:

- B. Direct Deposit Form
- C. Deferred Compensation (OBRA)
- D. Life Insurance
- E. Pre-Tax Deduction For Insurance

Part-Time Employees:

Required Forms:

1. W-4 Tax Withholding Form
2. M4 Tax Withholding Form
3. Employment Eligibility Form (I-9)
4. Worcester County Retirement Enrollment Form (if previous member)
5. Deferred Compensation (OBRA)
6. Code Red Contact Info Form

Note: Copies of all required licenses and certifications, as well as any security checks must be presented prior to start of work.

209 Pre-Employment Physicals

To help ensure that employees are able to perform their duties safely, medical examinations are required.

After an offer has been made to an applicant entering a designated job category, as defined by that position's job description, a medical examination will be performed at the Town's expense by a health professional of the Town's choice. The offer of employment and assignment to duties is contingent upon satisfactory completion of the exam.

Current employees may be required to take medical examinations to determine fitness for job responsibilities when evidence of failure to perform is noticed. Such examinations will be scheduled at reasonable times and intervals and performed at the Town's expense.

Information on an employee's medical condition or history will be kept separate from other employee information and will be confidentially maintained. Access to this information will be limited to those who have a legitimate need to know. See Personnel Records Policy for more information.

210 Orientation

The Town Treasurer and Town Administrator shall inform new employees of their rights, responsibilities, duties and obligations, and shall explain all benefits and options to which the employee is entitled as well as providing any assistance the employee may require with the completion of appropriate forms. The new employee shall be provided with a copy of the Personnel Policy Manual, and the Department Head shall provide on-site training and orientation regarding specific rules, regulations, policies and procedures of the employee's assigned department including safety policies and procedures.

211 Probationary Period

The probationary period is intended to give new employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. The Town uses this period to evaluate employee capabilities, work habits, and overall performance.

All new and rehired employees work on a probationary basis for 6 months after their date of hire. Employees who are promoted within a department or transferred to a different Town department must complete a secondary probationary period of the same length with each reassignment to a new

position. Any significant absence will automatically extend an probationary period by the length of the absence. If the Town determines that the designated probationary period does not allow sufficient time to thoroughly evaluate the employee's performance, the probationary period may be extended for a specified period.

There will be two performance reviews during this period, one at three months and one at six months, unless otherwise specified by a collective bargaining agreement or individual employment contract. The Appointing Authority, with the assistance of the Department Head, shall evaluate the employee's performance and notify the employee in writing of the results of the evaluation.

212 Personnel Data Changes

It is the responsibility of each employee to immediately notify in writing their Department Head and the Town Administrator of any changes in personal data. Personal mailing addresses, home and cellphone telephone numbers, number and names of dependents, individuals to be contacted in the event of an emergency, educational accomplishments, and other such status reports should be accurate and current at all times.

Employees are required to furnish a workable telephone number to the Town and keep a workable telephone number supplied to the Town for the duration of their employment by the Town.

PERSONNEL POLICIES & PROCEDURES
For The
Town of Hubbardston

300 GENERAL ADMINISTRATION

301 Classification and Compensation Plan

The Human Resources Advisory Board shall be responsible for the preparation, maintenance, and revision of the Classification Plan for all non-union Town positions, based upon similarity of duties performed and responsibilities assumed. No person shall be appointed, employed, or paid as a Town employee under any title other than one that is included in the Classification Plan.

Every three years the Human Resources Advisory Board or the Town Administrator may conduct a salary survey using comparable towns. The Board will evaluate the survey data, and make a recommendation to the Selectboard for any changes in the Compensation Plan that may be indicated by the results of the salary survey.

The wage used to place a position on the Town's Compensation Plan will only include the position's base salary, not any offered and/or negotiated benefits such as Long Term Disability, monies received through the Quinn Bill, etc.

The Compensation Plan shall consist of the minimum and maximum wages, step rates and grades for those positions approved by the Selectboard. Any approved increases in the wage scale will be effective July 1 unless the Selectboard determines that the Town's fiscal condition requires a different effective date.

New Employees

A new employee shall be paid at the minimum Step in the approved Classification Grade to which the position is assigned, unless previous employment experience justifies starting at a step no higher than mid-grade. Such a decision shall be based upon the assessment of previous experience, education and the best interests of the Department.

Pay Rates in Promotions & Demotions

An employee promoted to a position having a higher wage/salary range, or demoted to a position having a lower pay grade, shall be paid at whatever rate in the new range is deemed appropriate by the Town Administrator.

Maximum Step Employees

An employee who is paid at the maximum Step in a Grade will receive a pay raise only through Cost of Living increases in the Compensation Plan.

302 Wage and Salary Increases

All wage and salary increases must be funded in the annual budget and will be based on individual Employee Performance Evaluations, across the board “Cost of Living” increases in the Compensation Plan, or a change in a job description that resulted in a reclassification of that position.

Performance Evaluations

The Town of Hubbardston, recognizing the need for a comprehensive employee evaluation system, has established an annual Performance Evaluation System. The purpose of this system is to provide:

- A uniform means to fairly and accurately evaluate an employee’s performance in relation to official job descriptions and agreed-upon objectives, as well as an individual’s strengths, weaknesses and potential for growth;
- Encouragement and guidance of an employee’s development of his/her special skills and work interests;
- A method for improving operations and programs through employee input;
- The means to monitor the performance of probationary-period employees on a timely basis; and
- The assurance that pertinent and relevant documentation is presented in support of any individual merit increase recommendation.

Employee performance evaluation is an ongoing day-to-day responsibility of the Department Head/Supervisor (not just an end-of-year process).

Probationary Period Evaluations:

There will be a minimum of one performance review during the six month probationary period. The Department Head shall evaluate the employee's performance using the standard performances evaluation form and provide a copy to the employee and the Appointing Authority.

Annual Performance Evaluations:

The Performance Year for the purpose of annual performance evaluation will be the preceding calendar year, January 1st to December 31st of any given year.

Annual Employee Performance Evaluations will be completed each spring prior to the end of the fiscal year in accordance with established Performance Evaluation Procedures.

All Performance Evaluations will be completed using the Town's standard Performance Evaluation Form. Department Heads will complete and discuss the individual evaluations with each employee in their department. All original, signed evaluations will be forwarded to the Town Administrator within 30 days of completion for retention in the Employee's Personnel File.

Merit Increases

The Performance Evaluation System utilizes the following categories for overall performance: "Does Not Meet Expectations," "Meets Expectations," and "Exceeds Expectations." No merit increase will be awarded to an employee whose performance "Does Not Meet Expectations". Department Heads, Committees, and Town Administrator will utilize the following guideline in awarding merit increases:

Does Not Meet Expectations	No Increase
Meets Expectations	1Step Increase
Exceeds Expectations	1 Step Increase

If a Merit Increase brings an employee to the top Step of their current Grade, that person will remain on that Step and receive increases only through the COLA process. See Cost of Living Adjustments below (302/C).

Cost of Living Adjustments

All wage adjustments must be approved by the Town Administrator, and be based upon availability of funds. The Town Administrator may recommend a Cost of Living Adjustment (C.O.L.A.) in the overall Compensation Plan each year. A Cost of Living Adjustment will change each Step in each Grade of the Compensation Plan by the amount of the approved increase, with only minor variations due to rounding. Cost of Living Adjustments will be effective on July 1 of each year, and will apply to all non-union employees. A Cost of Living Adjustment is separate from and independent of any performance-based Merit Increase.

303 Job Description and Classifications

The job descriptions upon which the Classification Plan is based shall be construed solely as a means of identification and not as limiting the duties and responsibilities of any position or as modifying or in any way affecting the power of any administrative authority to assign duties to, or to direct the work of, any employee under its jurisdiction.

The creation of a new job description or significant changes to an existing job description will result in a review of the job description and a possible reclassification of the job by the Human Resources Advisory Board. This process uses a standard and consistent methodology to rate the job and assign it to a specific Grade on the Classification Plan.

Revisions in classification specifications, allocations of new positions, reclassifications and amendments to the Classification Plan will be made in the following manner:

New Positions:

In conjunction with the Department Head or Board Chairperson, the Human Resources Advisory Board and the Town Administrator shall analyze the duties and responsibilities of each new position proposed. On the basis of this analysis, the Human Resources Advisory Board and the Town Administrator will establish a job description and Grade level for the proposed new position.

The Role of the Human Resources Advisory Board: In the case of a proposed new position, the Human Resources Advisory Board shall not substitute its judgment for that of the Selectboard as to the need for such an action, but shall determine solely whether the new position is assigned to the appropriate Grade. In no case may an individual be hired into the proposed new position until the position has been approved and Town Meeting has appropriated funds for that position.

Job Description Changes:

Each Department Head or Board Chairperson shall report to the Human Resources Advisory Board any changes in the organization of any department under its jurisdiction or in the assignment of duties and responsibilities to a particular employee which might result in changes in the Classification Plan or in any of the positions within that department. A departmental review of current job descriptions shall be done at a minimum of once every two years to assure compliance with the Town's Classification and Compensation Plan.

304 Timekeeping

Accurately recording time worked is the responsibility of every employee. Federal and state laws require the Town to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

Employees should accurately record the time they begin and end their work. They should also record the beginning and ending time of any split shift or departure from work for personal reasons. Employees shall record the proper codes for time worked and time off as outlined on the Town's time sheet. All employees shall both print their names on the time sheet and sign it. Time sheets are to be kept up to date as the employee works.

All completed time sheets are to be submitted to the Department Head or Board Chairperson for approval before forwarding to the Town Accountant. Altering, falsifying or tampering with time records or recording time on another employee's time record may result in disciplinary action, up to and including termination of employment.

305 Pay Procedures

Employees are paid on a biweekly basis for a period beginning on Thursday and ending on Wednesday. All employees must submit signed timesheets (and any other documentation that may be required by a particular department) for each pay period to their direct supervisor. Supervisors are responsible for submitting their department's payroll vouchers to the Town Accountant by Thursday at 2 p.m. of the week previous in order for employees to be paid on Thursday of the following week. In addition, other forms may be required from time to time.

306 Overtime

Payment for overtime shall be in accordance with the terms of the Fair Labor Standards Act of 1938, as amended. Non-exempt employees shall be paid one and one-half times their regular hourly rate for the hours worked beyond forty in the workweek, unless Federal or State laws for a specific occupational category or negotiated contract mandate a different overtime schedule. Hours charged to a non-worked official holiday are not included in the total used to qualify for overtime pay.

Supervisory, professional and managerial employees are exempt employees and do not receive overtime pay.

307 Compensatory Time

Any non-union, non-exempt employee who is required to work more than 8 hours of additional time beyond the normal workday in a 48-hour period shall be given time off in the form of compensatory time calculated at one hour of compensatory time for each excess hour worked.

EXAMPLE: Non-Exempt Employee Normally works an 8-hour day.

Day 1 - Employee works 13 hours

Day 2 - Employee works 12 hours

Total 25 hours or 9 hours in excess of regular work hours.

Employee would receive 9 hours of compensatory time.

This type of compensatory time shall not carry over from fiscal year to fiscal year, and, for health reasons for that employee, should be used as soon as is practicable. Requests for compensatory time must be made in writing to the Town Administrator, with specifics about the date's worked, total time worked, and the reason for the excess hours.

308

Holidays	and	Holiday	Pay
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All holiday pay is paid at an employee's regular daily rate. The following are paid holidays:

New Year's Day
Presidents' Day

Christmas Day
Labor Day

Memorial Day
Independence Day
Martin Luther King Day
Patriots' Day

Columbus Day
Veterans' Day
Thanksgiving Day

If a non-exempt employee is called in to work on a holiday in order to ensure the public safety, s/he is entitled to receive, in addition to his/her holiday pay, compensation at the rate of 1½ his/her hourly rate of pay for each and every hour actually worked on the holiday.

New full-time employees and part-time employees with benefits will be eligible for pay for non-worked holidays after being employed for thirty (30) days.

A holiday calendar is distributed each spring for the upcoming fiscal year. This calendar follows the one issued by the Office of the Secretary of the Commonwealth.

Employees must take the holidays on the days listed on the schedule. If a holiday falls on a day when the employee is not usually scheduled to work, that employee must take the holiday on the day usually worked immediately prior to or immediately after the holiday date listed on the calendar. Any exceptions to this policy must be pre-approved in writing by the department head and a copy filed with the Selectmen, at least ten days prior to the occurrence of the holiday.

309 Insurance Benefits

The Town offers a variety of health insurance plans to full time employees and part-time employees with benefits. The Treasurer Collector should be contacted for current plans and rates. The Town pays 65% of the total premium. A retired employee may choose to continue to purchase health insurance through the town, but will pay 102% of the premium. A \$15,000 Life Insurance policy is also available for which the Town pays a portion of the premium. For retirees, a \$15,000 Life Insurance policy is available through the Town with 100% of the premiums paid by the retiree. Other insurance may be available at 100% employee cost. See the Treasurer Collector for details.

310 Workers' Compensation /Injury on Duty

Any employee covered by Workers' Compensation insurance who is required to be out of work because of an on-the-job injury will be paid his regular straight-time wages or salary by the Town for up to a maximum of five working days that s/he is unable to work. If the injury requires absence of more than five days, the employee will be paid at the Workers' Compensation pay rate established for that employee. If an employee has accumulated sick leave and requests to do so, the difference

between the Workers' Compensation pay and his/her regular pay may be charged to accumulated sick time so that the employee receives 100% of his/her weekly payroll. In a case of an on-the-job injury, the Town reserves the right to require a physician's certification of the need for any absence over two working days. No deductions are made from the worker's compensation check and therefore the employee must make arrangements for voluntary deductions such as health insurance.

311 Personnel Records

A centralized personnel file shall be kept for each employee. Such files shall include applications, evaluations, reports, and records pertinent to an employee's employment. To ensure the uniformity and confidentiality of employee personnel files, content of and access to files is limited and shall be controlled in accordance with this policy.

It is the policy of the Town that all employees shall comply with the laws governing public records and confidential information. No employee shall knowingly or willingly release confidential personnel information, nor shall employees refuse to provide public information. Town employees have a diminished expectation of privacy as public employees.

Content

Pre-employment documents such as applications, resumes, required licenses, offer of employment letters, copies of transcripts or diplomas, pre-employment physical reports, military discharge documentation, Civil Service certifications, and other similar materials shall be included in the employee's personnel file.

Post-employment documents such as performance evaluations, disciplinary action notices, physician's statements, commendations, Civil Service promotional certifications, copies of information sent to the employee, or to third parties about the employee, etc. shall be included in the employee's personnel file. When post-employment information is inserted into an employee's personnel file, s/he shall be given a copy of such material by the Human Resources Advisory Board.

The Appointing Authority/designee (defined as the Town Administrator) at his/her discretion shall determine whether a report or record will be placed in the employee's personnel file, except for information submitted by the employee him/herself in rebuttal. Any material submitted by a person other than the Appointing Authority or the employee shall be forwarded to the Appointing Authority for his/her approval prior to insertion into the file.

All medical-related information will be kept segregated in a centralized location.

Removal

Once inserted into an employee's personnel file, documents may only be removed if there is a clear and compelling reason to do so. The employee or his/her Appointing Authority must make such requests. The employee should forward a request to his/her Appointing Authority. The Appointing Authority shall forward the request, and a letter of support or denial, to the Town Administrator.

The Town Administrator will make a determination as to whether or not the material in question should be removed from the employee's personnel file. If the Appointing Authority is not satisfied with the decision of the Human Resources Advisory Board, he or she may file an appeal with the Selectboard.

Location and Security

Employee personnel files will be maintained at the Town Office under the supervision of the Town Administrator who will be responsible for their safety and security. It is the responsibility of the Appointing Authority/department manager to forward all relevant documents to the Town Administrator for inclusion in the employee's official personnel file. Department managers may keep duplicate copies of personnel records. However, any personnel records maintained in a place other than under the supervision of the Town Administrator at the Town Office must be treated with the same protocols for access as those in the official file

Access

An employee, upon written or verbal request and in the presence of the Town Administrator or designee, may review, add rebuttal to a particular document, or be provided with a copy of all or part of his/her personnel file. An employee now or formerly an employee of the town may see and or receive a copy of his or her own personnel records by presenting a request in person or in writing.

Other individuals who are authorized to have access to employee personnel files include: the Town Administrator, the Human Resources Advisory Board; attorneys or union representatives of the employee who have written authorization from the employee; the department manager and Appointing Authority who supervise the employee; attorneys or their agents representing the town; and third parties in response to a court order.

A subpoena or court order requires the appearance of the named individual, such as the keeper of records, and may also require those individuals to bring to a court appearance certain employee records that they have in their possession. Any employee who receives a subpoena or court order requiring personnel or payroll information should contact the Town Administrator immediately. The Town will only release confidential personnel information in response to a court order. The Town Administrator will notify the employee in the event that confidential employee

data is released in response to a court order.

312 Resignation

To resign in good standing, an employee must give his/her Department Head or Board Chairperson and the Town Clerk written notice of resignation at least two weeks prior to his/her last day of work. The Town Administrator may waive the two-week written notice requirement when an employee must resign due to an emergency. A copy of the notice must indicate if the departure is to be considered retirement.

PERSONNEL POLICIES & PROCEDURES
For The
Town of Hubbardston

400 STANDARDS OF CONDUCT

401 General Conduct and Standards

Town employees are expected to act honestly, conscientiously, reasonably and in good faith at all times having regard to their responsibilities, the interests of the Town and the welfare of its residents.

Employees have an obligation to be present at work as required and to be absent from the workplace only with proper authorization; to carry out their duties in an efficient and competent manner, and maintain specified standards of performance; to comply with reasonable employer instructions and policies and to work as directed; to respect the privacy of individuals and use confidential information only for the purposes for which it was intended; to neither use, nor allow the use of Town property, resources, or funds for other than authorized purposes; to incur no liability on the part of the Town without proper authorization; and, to maintain all qualifications necessary for the performance of their duties legally and efficiently.

The intent of this policy is to ensure that: 1) employees meet the Town's legitimate expectations in the areas of performance and behavior; 2) employees whose performance or behaviors are deficient are provided with the necessary assistance and motivation to meet the Town's expectations; and 3) disciplinary action initiated against an employee is fair and appropriate.

Failure to behave in a manner consistent with the standards of conduct and policies included herein may result in disciplinary action being initiated against the offending employee. The Town shall utilize a fair and equitable process in reviewing an employee's alleged violation of these standards and policies and shall discipline the employee, if called for, in a manner appropriate given the alleged violation.

This policy applies to all non-union, paid, appointed employees in Town Service.

402 Disciplinary Action

The Town of Hubbardston relies on its employees to respect the rights and feelings of others, to observe instructions and rules for safe and efficient operation, and to maintain the Town's high ethical standards. It is the policy of the Town to ensure that disciplinary actions taken against employees are fair, equitable, and consistent in all departments without regard to race, color, sex, age, religion, marital status, national origin, sexual orientation, or disability. It is the duty of all supervisory personnel to promptly discuss improper or inadequate performance with an employee in order to correct deficiencies and avoid disciplinary action.

While individual departments may promulgate specific rules for their operations, all employees are expected to comply with certain rules that reflect common sense and good judgment. These rules include, but are not limited to: punctually observing work hours; following safety rules and other rules of operation; treating others with courtesy and respecting their rights and property; honest treatment of time records; respect for Town property; and behavior that is appropriate in the work environment. An employee who departs from accepted practice or violates specific departmental rules may be subject to the following **Progressive Warning Procedure**:

1. **Initial Reprimand.** The immediate supervisor will verbally counsel the employee, identifying the infraction and the timing and expectations for corrective action.
2. **First Written Warning.** If the problem persists, the supervisor will meet with the individual privately and review the facts of the problem, state the requirements for correction of the problem, state the action to be taken by the supervisor if the problem continues, and record the conversation in writing, place this record in the employee's personnel file and give a copy to the employee.
3. **Second Written Warning.** The procedure in Step 2 above will be repeated.
4. **Suspension/Notice of Termination.** If an employee fails to correct the problem after Steps 1 through 3 have been taken, the supervisor will review the case with the Selectboard. The Town Administrator and/or supervisor will meet with the employee, review the facts of the case and

Inform the employee that s/he is being suspended without

pay,

or

Inform the employee that s/he is terminated immediately,

and

Record the conversation in writing and place a copy in the employee's personnel file.

Any steps in the progressive warning system may be by-passed if the supervisor, with the Town Administrator's approval, determines that more immediate action is warranted. This procedure does not apply to probationary or at will employees, although at their discretion, supervisors may use a warning system before terminating at will or probationary employees.

403 Non-Discrimination

The Town recognizes the right of individuals to work and advance on the basis of merit, ability, and potential without regard to race, color, sex, age, religion, marital status, national origin, sexual orientation, or disability. Non-discrimination and equal opportunity are the policy of the Town in all of its employment programs and activities.

Toward this end, the Town commits itself to take affirmative measures to ensure equal opportunity in the areas of recruitment, hiring, promotion, demotion or transfer, layoff or termination, rates of compensation, in-service or apprenticeship training programs, and all terms and conditions of employment. The Town is committed to fostering and encouraging a workplace comprised of individuals of diverse backgrounds, races, genders, abilities, religious beliefs, sexual orientation, and ages.

All Town employees are encouraged to take diligent, affirmative steps to ensure equal opportunity and respect for diversity, not only in the internal affairs of the Town departments and agencies, but also in their relations with the public, including those persons or organizations doing business with the Town. The policy of the Town is to:

- Recruit, hire, and promote in all job classifications without regard to race, color, sex, age, religion, marital status, national origin, sexual orientation, or disability. Make decisions about employment so as to encourage the development of a diverse workforce.
- Ensure that employment and promotion decisions are made in accordance with the principles of equal opportunity, by imposing

only valid, job-related requirements for employment and promotional opportunities.

- Ensure that all other personnel actions such as compensation, benefits, transfers, layoff, recall, training, tuition assistance, and social and recreational programs will be administered without regard to race, color, sex, age, religion, marital status, national origin, sexual orientation, or disability.
- Prohibit any kind of harassment based on race, color, sex, age, religion, marital status, national origin, sexual orientation, or disability.

No retaliatory action against those persons who file complaints of discrimination or against individuals who cooperate in such investigations will be tolerated. Violation of this policy will lead to appropriate disciplinary action up to and including termination from Town service.

Anyone who feels that he or she has been discriminated against by the Town on the basis of race, color, sex, age, religion, marital status, national origin, sexual orientation, or disability, in employment practices may file a grievance in accordance with the procedures described in the Grievance Policy of this document.

404 Americans with Disabilities Act

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination on the basis of physical or mental disability. The Town does not discriminate against employees or applicants and will make reasonable accommodation, when practicable, to assist employees or applicants with special needs or requirements. For questions regarding the ADA, please contact the Town Administrator for the name and number of the Town's ADA Coordinator.

405 Grievance Procedure

A grievance is a dispute between an employee and the appointing or supervisory authority over the meaning or application of this Policy Manual. In most cases, an employee should make every effort to resolve potential grievances with his/her Department Head or Board Chairperson informally. The majority of potential grievances can be handled in this way. If informal discussion does not resolve the problem, the following procedure should be followed:

1. The employee will submit to his/her Department Head or Board Chairperson a written account of the incident or action causing the problem. The Department Head or Board Chairperson will issue a response within 7 days of receiving the notice of grievance. The Department Head will submit copies of the grievance and the written response to the Town Administrator for the employee's personnel file.
2. If the Department Head's response does not resolve the problem to the satisfaction of the employee, s/he may appeal in writing to the Selectboard within 5 days of receipt of the response. The Town Administrator must schedule a meeting with the employee within 10 days of receipt of the appeal. Within 10 days following this meeting, the Town Administrator will issue a written response, which will be final and binding on all parties. A copy of the Town Administrator's written response shall be placed in the employee's file.

406 Sexual Harassment

It is the goal of the Town of Hubbardston to promote a workplace which is professional and which treats all of those who work here with dignity and respect. Sexual harassment is unlawful and will not be tolerated by the Town. Further, any retaliation against an individual who has complained about sexual harassment, or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will also not be tolerated.

Because the Town takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is demonstrated to our satisfaction that such harassment occurred, we will act promptly to eliminate the harassment and impose such corrective action as is necessary, including disciplinary action where appropriate.

Definition of Sexual Harassment

In Massachusetts, the legal definition of sexual harassment is as follows:

- Sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:
 - Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
 - Such advances, requests or conduct have the purpose or effect of

unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

These definitions are broad and include any sexually oriented conduct, whether it is intended or not, by supervisors, employees and, in some instances, third parties, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers. Prohibited conduct also extends to any function or activity that is officially sponsored by the Town of Hubbardston. While it is not possible for us to list all those circumstances that we would consider to be sexual harassment, the following are some examples:

- Unwelcome sexual advances, whether they involve physical touching or not;
- Requests for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment;
- Assault or coerced sexual acts.

The following may also constitute sexual harassment in certain circumstances:

- Use of sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comments on an individual's body, comments about a individual's sexual activity, deficiencies or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences;
- Discussion of one's sexual activities; and
- Comments regarding gender stereotypes that demean embarrass or humiliate employees.

Private Counseling Option

If you believe that you are the victim of sexual harassment, in addition to the right to file a complaint, you may also seek advice from a Sexual Harassment Officer (Town Administrator and Police Chief). This person is available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process. If you desire, this individual will work with you to find a way of resolving your concerns in an informal manner acceptable to you and in a manner which would offer you as much privacy and confidentiality as is possible. If this option does not resolve the complaint, you may proceed through our complaint procedure set forth in Section IV below.

Complaints of Sexual Harassment

If any of our employees believes that s/he has been subjected to sexual harassment, it is our policy to provide the employee with the right to file a complaint with our organization. This may be done in writing or orally to the Sexual Harassment Officer (SHO) designated by the Town. (See below). When the SHO receives the complaint, s/he will then investigate the allegation in a fair and expeditious manner. The SHO's investigation would include a private interview with the person filing the complaint and with witnesses. S/he will also interview the person alleged to have committed sexual harassment. The SHO may, if necessary, request written statements in addition to the private interviews. If the SHO is unable to resolve the complaint, s/he will report the investigative findings to the Town Administrator or Selectboard for disposition.

If the investigation reveals that sexual harassment did occur, we would act promptly to eliminate the offending conduct, and where it is appropriate, we will also impose disciplinary action that could include termination from employment. In addition, when the investigation is completed through formal or informal procedures, we will inform the person filing the complaint and the alleged harasser of the results of the investigation, including allegations that have not been sustained.

If you would like to file a complaint, you may do so by contacting either Sexual Harassment Officer.

Disciplinary Action

If sexual harassment has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such actions may include: counseling, informal or formal reprimands, written or verbal warnings, suspension, reduction in pay, reduction in duties, transfers, and other formal sanctions including termination from employment.

State & Federal Remedies

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the following government agencies:

1. The United States Equal Employment Opportunity Commission
1 Congress Street, 10th Floor, Rm. 1001
Boston, MA 02114 (617) 565-3200
2. The Massachusetts Commission Against Discrimination

Boston Office: One Ashburton Place Boston, MA 02108 (617) 727-3990	Springfield Office: 24 Dwight Street, Room 220 Springfield, MA 01103 (413) 739-2145
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Sexual Harassment Officers for the Town of Hubbardston:

The Selectboard appoints two Sexual Harassment Officers. Please call the Selectboard office for names and contact information.

407 Commercial Driver's License (CDL) Alcohol and Drug Testing Policy

The following is the policy of the Town regarding testing associated with alcohol misuse and drug use by those employees operating motor vehicles that require a Commercial Drivers' License. The terms alcohol misuse, drug use, and substance abuse are used interchangeably herein. Definitions for specific terms used within this policy can be found in the definitions section under General Provisions.

This policy applies to all employees subject to the regulations of the Federal

Highway Administration, Department of Transportation (DOT) Alcohol and Drug ruling that include every person who operates a commercial motor vehicle (CMV) in interstate or intrastate commerce, and is subject to the commercial driver's license requirements of DOT Part 383.

Safety-Sensitive Functions

Regulations are based on the delineation of safety-sensitive functions that are defined as including any of the following circumstances and or activities:

- At a carrier or shipper plant, terminal or facility, or other property, or on any public property, waiting to be dispatched, unless the driver is relieved from duty by the employer;
- Inspecting service brakes, including trailer brake connections, parking (hand) brakes, steering mechanism, lighting devices and reflectors, tires, horn, windshield wipers, rear vision mirrors, coupling devices, fire extinguishers, spare fuses, or warning devices for stooped vehicles;
- Inspecting, servicing, or conditioning any CMV in operation;
- At the driving controls of a CMV in operation;
- While in or upon an CMV, except when resting in a sleeper berth;
- Supervising or assisting in loading or unloading a vehicle;
- Attending a vehicle being loaded or unloaded;
- While in readiness to operate the vehicle;
- When giving or receiving receipts for shipments loaded or unloaded;
- Performing the driver requirements of sections 392.40 and 392.41 of Part 392, Driving Motor Vehicles, relating to accidents;
- Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Alcohol Prohibitions

The following prohibitions are established by the DOT relative to alcohol use for performance of safety-sensitive functions:

- A driver may not report for duty or stay on duty:
 - With a blood alcohol concentration of 0.04 or greater

- If in possession of alcohol, unless it is being transported as cargo (this includes any product, medication, or food containing alcohol regardless of the alcohol content)
 - If using alcohol
 - Within four hours of using alcohol
- A driver who has an accident may not use alcohol until post-accident testing is done or for a period of eight hours, whichever comes first
- Drivers cannot refuse to submit to alcohol testing
- Employers who know about any of the above acts cannot permit the driver to perform a safety-sensitive function.

Drug Prohibitions

The following prohibitions are established by the DOT relative to drug use for performance of safety-sensitive functions:

- The Federal Highway Administration bans the use of controlled substances by drivers.
- Drivers may not report for duty or stay on safety-sensitive duty while using any controlled substance. There may be an exception to this ruling if a physician has prescribed a substance and has advised a driver that it does not interfere with his/her ability to operate a vehicle in a safe manner.
- Drivers may not report for duty or stay on duty if they have tested positive for a controlled substance.
- Employers who know about either of the above acts cannot permit the driver to perform a safety-sensitive function.
- Employers may require drivers to report the use of any therapeutic drugs.

Alcohol and Drug Testing

Testing to determine the presence of alcohol and/or drugs can and may be performed in any of the following situations:

- Pre-Employment: Before a new hire can perform any safety-sensitive duties or when a person transfers into a safety-sensitive function from elsewhere in the municipality (no person will be considered for a Driver's position who has had a positive drug and/or alcohol test within two years of his or her application).
- Post-Accident: Following an accident where a life was lost or the driver was cited for a moving traffic violation. Post-accident alcohol testing shall be done within two hours of the accident, or not at all. Post-accident drug testing shall be done within 32 hours of the accident, or not at all.

- Random: Unannounced random testing is required on a certain percentage of drivers each year. The random selection process used shall ensure that each driver has an equal chance of being tested each time selections are made. Drivers are randomly selected from the pool.

Random testing for alcohol shall be completed just before, during or immediately after performing safety-sensitive work. Random testing for drugs may be done at any time a driver is at work. Once notified that he or she has been selected for random testing, the driver must proceed immediately to the test site. Random testing is done as follows:

- 25% of all drivers shall be randomly tested for alcohol during the first year of the testing program. The number of drivers to be randomly tested in following years depends on the percentage of positive tests for the entire industry.
- 50% of drivers shall be randomly tested for controlled substances during each year of the testing program.
- Reasonable Suspicion: If a supervisor has reason to believe that a driver's behavior or appearance may indicate alcohol or drug abuse, he or she may require the driver to be tested.
 - Testing for reasonable suspicion is based on:

- The observances of a trained supervisor.
 - Specific, clearly stated observations by supervisor concerning the driver's appearance, behavior, speech or body odor.
- Observations made for alcohol testing shall be made just before, during or just after the performance of safety-sensitive function. The supervisor who makes the observation and determines that reasonable suspicion testing should be done may not conduct the actual alcohol test on the driver. Alcohol testing for reasonable suspicion must be done within two hours of the observation. Tests that cannot be done within eight hours of the observation shall not be done. A driver cannot report for duty or stay on the job while under the influence of alcohol or while impaired by alcohol as shown by behavior, speech or performance that indicates alcohol misuse. A driver will not be allowed to continue to perform safety-sensitive duties until you're his/her alcohol concentration is less than 0.02 or 24 hours have passed from the time of initial observation. Action regarding alcohol misuse cannot be taken against a driver unless an alcohol test was administered or was refused by the driver.
 - Return to Duty and Follow-up: Return to duty testing is required for drivers who violate prohibitions and are returning to work. In order to return to work, an alcohol concentration of less than 0.02 or a negative drug test is required. Follow-up testing is required when a driver returns to a safety-sensitive function. A minimum of six tests shall be performed during the first year back in a safety-sensitive position. However, follow-up testing may continue for up to five years.

As part of the Federal DOT Alcohol and Drug regulations and this policy, a driver must submit to alcohol and drug testing as required. If s/he refuses to be tested, the driver cannot continue on the job. Refusal to be tested is considered to be any time a driver either fails to provide enough breath for

alcohol testing or enough urine for controlled substance testing without a valid medical reason after being notified of the testing requirements, or if the employee clearly obstructs the testing process.

All alcohol testing is done by a certified Breath Alcohol Technician (BAT) in a private setting where no one but the employee being tested and the BAT can see or hear the test results. An Evidential Breath Testing (EBT) device approved by the NHTSA must be used. The BAT will ask for identification. The employee may ask the BAT for identification as well.

To complete the test the employee being tested must blow forcefully into the mouthpiece of the testing device. The BAT must show the employee the test result on the testing device. A screening test is done first. If the reading is less than 0.02, the employee will sign the certificate and fill in the date on the form. The test will be reported as negative to the employer.

If the reading is 0.02 or greater, a confirmation test must be done (after 15 minutes but within 20 minutes of the first test). The employee will be asked not to eat, drink, belch or put anything in his/her mouth. These steps prevent the buildup of mouth alcohol that could lead to an artificially high result. If the screening and confirmation test results are not the same, the confirmation test result is used.

Drug testing is done by analyzing a urine sample, which is collected in a private location. Urine specimens are divided into two containers by the collection site person in the employee's presence. These two samples, called 'primary' and 'split,' are sent to a testing laboratory certified by the Department of Health and Human Services (DHHS).

At the laboratory, a screening test is performed on the primary sample. If this test is positive for drugs, a confirmation test is required. The confirmation test must use a specialized procedure called gas chromatography/mass spectrometry, to ensure that over-the-counter drugs are not reported as positive. If the first test is positive, the Medical Review Officer (MRO) will notify the employee to find out if there is a medical reason for the drug use.

If the employee can document why the substance is being taken and the MRO finds it is a legitimate medical use, the test may be reported as negative to the employer.

After being notified that the first test was positive, the employee has 72 hours to request a test of the split specimen. If the employee makes this request, the split specimen is sent to another DHHS-certified lab for the test. If the employee does not contact the MRO within 72 hours, but can prove to the MRO that h/she had a legitimate reason for not doing so, the MRO can order the split specimen tested. Removal from safety-sensitive duty as required by the DOT following a positive drug test is not delayed to await the result of the split specimen test.

If the analysis of the split sample does not confirm the presence of a drug, the MRO cancels the test and reports this to the DOT, to the employer, and to the employee.

Violation of Policy

Consequences for violating the alcohol or drug prohibitions are as follows:

- Alcohol Violations
 - Removal from safety-sensitive functions
 - Prohibition from return to safety-sensitive duties until an evaluation has been done and any recommended treatment is completed
 - Employees with an alcohol concentration of 0.02 or greater but less than 0.04 are prohibited from returning to safety-sensitive duties for at least 24 hours.
- Drug Violations
 - Removal from safety-sensitive functions
 - Prohibition from return to safety-sensitive duties until an evaluation had been done, recommended therapy is completed, and a verified negative drug test is produced.

The Federal DOT Alcohol and Drug regulations require that the Town, as the employer, provide the employee with an opportunity for treatment. The ruling does not, however, require the Town to hold a job open for an employee or to pay for rehabilitation. If an employee violates an alcohol or drug prohibition s/he must be evaluated by a substance abuse professional to determine what help is needed. If the employee would like further information on alcohol or drug issues, s/he may do so on a confidential basis through the Town's Employee Assistance Program (EAP) for assistance from the EAP, call 1-800 451-1834.

408 Drug Free Workplace

It is the policy of the Town to provide employees with a working environment that is free of the problems associated with the use and abuse of controlled substances. The use of controlled substances is inconsistent with the behavior expected of employees and subjects the Town to unacceptable risk of workplace accidents or other failures that would undermine the Town's ability to operate effectively and efficiently

The non-prescriptive use, sale, possession, distribution, dispensation, manufacture, or transfer of controlled substances on Town property, or at any other worksite where employees may be assigned, or elsewhere during work hours, is strictly prohibited.

Further prohibited is the use, sale, possession, distribution, dispensation, manufacture, or transfer of controlled substances on non-working time to the extent that such use impairs an employee's ability to perform his/her job or where such use, sale, possession, distribution, manufacture or transfer affects the reputation of the Town to the general public or otherwise threatens its integrity.

Employees who are convicted of controlled substance-related violations in the workplace under state or federal law, or who plead guilty or no contest to such charges, must inform their Department Head or Board Chairperson or Appointing Authority within five (5) days of such conviction or plea. Department Heads or Appointing Authorities shall notify the Town

Administrator immediately.

Employees who are convicted, or who plead guilty or no contest to such drug-related violations may be required to successfully complete a drug abuse or similar program as a condition of continued employment or re-employment.

The Town recognizes that drug dependency is an illness and a major health problem. The Town's objective is to prevent conviction for drug related offenses prior to their occurrence. Employees who wish to obtain help in dealing with such problems are encouraged to contact the Department Head, the Town's Employee Assistance Program (EAP) at 1-800-451-1834, or their own health insurance provider for assistance. Conscientious efforts to seek such help will not jeopardize an employee's job, and will not be noted in any personnel record.

Violations of any and all provisions of this policy may result in disciplinary action.

409 Smoking in the Workplace

In accordance with the Town's Board of Health regulations (effective 12/1/01), it is the policy of the Town that smoking in the workplace is prohibited. The workplace is defined as all municipal buildings and vehicles, including, but not limited to, Police, Fire and Highway vehicles owned by or under the control of the Town, and vehicles that are assigned to departments in the Town. Smoking is prohibited within 10 feet from an entrance of a public building.

Any employee who knowingly violates this policy may be subject to disciplinary action.

State Laws for certain Police and Fire department positions are more restrictive, and would supersede this Board of Health regulation.

Given the close proximity of the many Town offices to the local elementary

school, employees should be advised that smoking is prohibited on any school property.

410 Conflict of Interest/Financial Disclosure

Pursuant to the provisions of Massachusetts General Law Chapter 268A, Town employees must not allow their private financial interests and relationships to conflict with their public obligations to act objectively and with integrity. Situations that might create this kind of conflict or create the appearance of a conflict include bribes, accepting gifts of substantial value, acting on own/family's/business's financial interests, obtaining municipal contracts, misusing one's official position, or representing private parties in Town matters.

411 Bulletin Boards, Department and Employee Mailboxes

Bulletin Boards and employee/department mailboxes are to be used for job related materials.

No offensive or derogatory materials are to be placed on any department bulletin board or in any department or employee's mailbox.

Any employee who is found to have placed any offensive, derogatory or inappropriate material on any of the Town bulletin boards, or in any employee/department mailboxes, or anywhere on Town property will face disciplinary action up to and including termination.

412 Computer, Electronic Mail and Internet Use

In order to ensure the appropriate use of computer resources, monitor and maintain productivity, prevent harm to the interests of the Town and its employees, and to prevent violation of various state and federal laws, the Town has established a policy concerning the use of electronic communication in Town offices. This Policy applies to all Town employees, elected or appointed officials, as well as boards and committee. Some common sense rules apply:

- As an overall rule, electronic communication is to be used only when it is necessary to perform a function of an employee's job.
- Electronic communication systems may not be used to annoy, offend or harass others.
- The Internet is to be used for work-related research and information only. Only information and software relevant to the employee's job

may be downloaded from the Internet.

- Employees should scan all software retrieved from the Internet for viruses before using it.

Public Record: E-mail created or received by an employee of the Town in the course of his/her employment and records of Internet use at work are public records and thus subject to public access under the Public Record Law, M.G.L. Ch. 66,10). With only a few statutory exemptions (M.G.L. Ch.4, 7(26) (a-m)), such records must be available for public inspection upon request.

Access by the Town: The Town has the right to monitor e-mail and Internet use by employees and to access and disclose all messages and images sent over its electronic mail system for any purpose. Employees should not put sensitive, private, or personal information in the communications systems and/or use these systems for personal communications.

Violations: Any employee who violates this policy may be subject to disciplinary action up to and including termination, as described in the Town's Standard of Conduct Policy.

413 EMPLOYEE GUIDELINES FOR USE OF SOCIAL MEDIA SITES

1. Electronic Communications and Computer Usage Policy. All employees are responsible for understanding and following the Hubbardston's Electronic Communications and Computer Usage Policy, in addition to this Policy.

2. First Amendment Protected Speech. Although the Town of Hubbardston can moderate the social media sites that accept comments from the public (such as blogs and wikis) to restrict speech that is obscene, threatening, discriminatory, harassing, or off topic, employees cannot use the moderation function to restrict speech with which the Town of Hubbardston merely disagrees (i.e. subject matter restrictions). Users have some First Amendment rights in posting content to public social media sites hosted by municipalities. Moderators must respect those rights by posting all comments other than those excluded for specific legitimate reasons, as referenced above.

3. Copyright Law. Employees must abide by laws governing copyright and fair use of copyrighted material owned by others. Never reprint whole articles or publications without first receiving written permission from the publication owner. Never quote *an* excerpt of someone else's work *without acknowledging the source*, and, if possible, provide a link to the original.

4. Conflict of Interest. *Employees are prohibited from using social media to engage in*

any activity that constitutes a conflict of interest for the Town or any of its employees, as defined by G.L. c. 268A.

5. Protect Confidential Information. Never post legally protected personal information that you have obtained from the Town of Hubbardston (e.g., information that is not public record under the Public Records Law, G.L. c.66, §10 and G.L. c. 4, §7(26), or whose dissemination is restricted under applicable Federal or State privacy laws or regulations). Ask permission to publish or report on conversations that occur within the Town of Hubbardston. Never post information about policies or plans that have not been finalized by the Town of Hubbardston, unless you have received explicit permission from your supervisor to post draft policies or plans on the department's social media sites for public comment.

6. Consider Your Content. As informal as social media sites are meant to be, if they are on a government domain or a government identity, they are official government communications. Social media sites will be sought out by mainstream media – so a great deal of thought needs to go into how you will use the social media in a way that benefits both the Town of Hubbardston and the public. Employees should not comment about rumors, political disputes, or personnel issues, for example.

7. Handling Negative Comments. Because the purpose of many social media sites, particularly department blogs and wikis, is to get feedback from the public, you should expect that some of the feedback you receive will be negative. Some effective ways to respond to negative comments include:

- a) Providing accurate information in the spirit of being helpful;
- b) Respectfully disagreeing; and
- c) Acknowledging that it is possible to hold different points of view.

8. Respect Your Audience and Your Coworkers. Do not use ethnic slurs, personal insults, obscenity, or engage in any conduct that would not be acceptable in your department's workplace. Do not be afraid to be yourself, but do so respectfully. This includes not only the obvious (no ethnic slurs, personal insults, obscenity, threats of violence, etc.) but also proper consideration of privacy and of topics that may be considered objectionable or inflammatory such as party politics and religion. Do not use your department's social media presence to communicate among fellow Hubbardston employees. Do not air your differences with your fellow Hubbardston employees on your department's social media's sites.

9. Use the Social Media Site or Identity Only to Contribute to your Department's Mission. When you contribute to your department's social media site or identity, provide worthwhile information and perspective that contribute to your department's mission of serving the public. What you publish will reflect on the Town of Hubbardston.

Social media sites and identities should be used in a way that contributes to the Town of Hubbardston's mission by:

- a) Helping you and your co-workers perform their jobs better;
- b) Informing citizens about government services and how to access them;
- c) Making the operations of your department transparent and accessible to the public;
- d) Creating a forum for the receipt of candid comments from residents about how government can be improved; and
- e) Encouraging civic engagement.

10. **Mistakes.** The Town of Hubbardston policy is that once something is posted, it should stay posted. Only spelling errors or grammar fixes should be made without making the change evident to users. If you choose to modify an earlier post, make it clear that you have done so do not remove or delete the incorrect content; provide the correct information and apologize for the error. Ways to accomplish this include:

- a) Strike through the error and correct; or
- b) Create a new post with the correct information, and link to it from the post you need to correct or clarify.

Either method is acceptable. In order for the social media identity or site to achieve transparency, the Town of Hubbardston cannot change content that has already been published without making the changes clearly evident to users.

11. **Media Inquiries.** Hubbardston or department social media identities or sites may lead to increased inquiries from the media. If you are contacted directly by a reporter, you should refer media questions to The Town Administrator.

12. **Personal Comments.** Make it clear when you are speaking for yourself as a resident or stakeholder, and not on behalf of the Town of Hubbardston. If you publish content on any website of the Town of Hubbardston and it has something to do with the work you do or subjects associated with the Town of Hubbardston use a disclaimer such as this: "The postings on this site are my own and don't necessarily represent the Town of Hubbardston's position or opinions."

13. **Employee or Official Profile.** If you identify yourself as a Town of Hubbardston employee or official, ensure your profile and related content is consistent with how you wish to present yourself to colleagues, residents and other stakeholders.

14. **Defamation.** Be aware that employees acting in their individual capacity (not on behalf of the Town of Hubbardston) not immune from defamation claims. Under Massachusetts law, defamation is established by showing that the defendant published a

false, non-privileged statement about out the plaintiff to a third party that either caused the plaintiff economic loss or was of the type that is actionable without proof of economic loss. Some statements, like imputation of a crime, are defamatory per se. Avoid statements that may be interpreted as defamatory.

15. Records Retention. Social media sites will contain communications sent to or received by Town of Hubbardston officials and employees, and are therefore Public Records. Ensure that the Town of Hubbardston or department retains a copy of the social media content in accordance with Public Records Retention Schedules. Review the third party social media service provider's terms of service for its record retention practices. Note that while third party social media service providers will most likely save your content for some period of time, they generally will not save it indefinitely. To the extent their policies are inconsistent with Public Records Retention Schedules, the Town of Hubbardston or department should retain copies of social media posts such as by printing or otherwise storing periodic "snapshots" of the social media sites.

16. Open Meeting Law. Be aware of the Open Meeting Law and possible violations for improper deliberations outside of a posted meeting. A series of individual postings on a social media site cumulatively may convey the position of a quorum of a governmental body regarding a subject within its jurisdiction, and may constitute improper deliberation among the members of a board or committee.

414 Use of Equipment

Equipment essential in accomplishing job duties is often expensive and may be difficult to replace. When using property, employees are expected to exercise care, perform required maintenance, and follow all operating instructions, safety standards, and guidelines.

Employees are required to immediately notify the supervisor or his/her designee if any equipment, machines, or tools appear to be damaged, defective, or in need of repair. Prompt reporting of damages, defects, and the need for repairs could prevent deterioration of equipment and possible injury to employees or others. The supervisor can answer any questions about an employee's responsibility for maintenance and care of equipment used on the job.

The improper, careless, negligent, destructive, or unsafe use or operation of equipment can result in disciplinary action, up to and including termination of employment.

415 Return of Property

Employees are responsible for all Town property, materials, or written information issued to them or in their possession or control. Employees must return all Town property immediately upon request or upon termination of employment. The Town may hold an employee's final paycheck until any Town property in that employee's possession is returned to the Town, or until the employee pays the Town for the value of the Town property he or she has not returned. The Town may take any or all action deemed appropriate to recover or protect its property.

416 Attendance and Punctuality

To maintain a safe and productive work environment, the Town expects employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees and on the Town. In the rare instances when employees cannot avoid being late to work or are unable to work as scheduled, they should notify their supervisor or the Public Safety Dispatch Office as soon as possible in advance of the anticipated tardiness or absence.

Poor attendance, a pattern of sick leave abuse and excessive tardiness are disruptive. Either may lead to disciplinary action, up to and including termination of employment.

PERSONNEL POLICIES & PROCEDURES

For The Town of Hubbardston

500 LEAVE POLICIES

Full-time employees and certain part-time employees with benefits are eligible for benefits as outlined in detail in the subsections below. All vacation, sick, holiday, personal and bereavement leave shall be granted to part-time employees with benefits on a pro-rated basis. Effective Jan. 1, 2010, all part-time permanent employees are eligible for vacation benefits, pro-rated based on length of service, as outlined below, and are subject to the 1 year accrual period.

Length of Service:

For the purpose of leave benefits, length of service is calculated from the date that the employee became eligible for benefits (when the employee began working 20 hours or more per week). If a part-time employee without benefits becomes eligible for benefits, his or her length of service, for the purpose of vacation calculation, will begin on the date he or she started working at least 20 hours per week. However, if a part-time employee without benefits who has worked at least 10 hours per week but less than 20 hours per week for 5 years or more becomes eligible for benefits, that employee will be credited with 1 year of service for each 5 year period worked in a non-benefited status.

Example 1. A part-time employee without benefits who has worked 12 hours per week for 2 years starts working 20 hours per week. Length of service for benefit purposes begins on the day the employee starts working 20 hours per week.

Example 2. A part-time employee without benefits who has worked 12 hours per week for 6 years starts working 20 hours per week. That employee is credited with 1 year of service at the start of the benefited employment to acknowledge a five (5) year period of unbenefited service already performed by the employee. Employee will have accrued 2 years of service for benefit purposes at the end of the first year of working 20 hours per week.

501 Civic Duty Leave

An employee required to serve on a jury on days s/he is scheduled to work shall be paid his/her regular wages for the first three (3) regularly scheduled work days, or part thereof, of such juror service, at his or her regular straight time pay. For fourth and subsequent days of such juror service, the employee shall be paid the difference between the amount received as juror compensation (excluding travel allowance) and the employee's straight time wage. An employee seeking compensation in accordance with this policy shall notify the Department Head after receipt of the notice of selection for jury duty, and shall furnish a written statement to the Town showing dates of juror service, time served and the amount of juror compensation received.

502 Military leave

Full time employees and part time employees with benefits who are members of the ready reserve of the armed forces that requires military training will be allowed to fulfill obligations without forfeiting vacation or sick leave benefits. The Town will pay the employee the difference between the military salary and the employee's regular salary for a maximum of fourteen (14) days per year.

503 Bereavement Leave

Full time employees and part time employees with benefits may be granted up to three days leave without loss of pay following the death of an immediate family member. Immediate family is defined as an employee's spouse, children, stepchildren, foster children, parents, siblings or parent-in-law, grandparent or a person permanently residing in the employee's household. An employee may be granted up to one-day bereavement leave for the purpose of attending the funeral of an aunt or uncle.

504 Non-Occupational Sick Leave

Definition: The term 'sick leave' shall apply to personal illness and disabling accidents that are not work-related. Sick leave is an excused absence with pay due to a specified illness. If an employee is out on sick leave for three or more consecutive days, s/he may be required to submit a physician's certificate to the Department Head prior to returning to work that confirms the employee's fitness to return to work. Notification of absence due to illness must be made to the Department Head or Supervisor at least one hour prior to the regular scheduled start time on the day of absence, unless the employee is unable to call or has been in an accident.

Eligibility and Accrual

A full-time employee of the Town who has been employed as of the first of any month shall be granted one (1) day of sick leave for each month up to twelve (12) days per year. Each sick leave day will be credited on the first day of the next month.

Probationary employees shall accrue sick leave during the probationary period but shall not be eligible to use the accrued sick leave until the probationary period has been satisfactorily completed.

Part-time employees with benefits shall be granted sick leave benefits as above, except on a pro-rated basis.

Unused sick leave may be accumulated up to a maximum of ninety (90) days. Upon termination of employment with the Town, all sick leave benefits accumulated or otherwise, shall cease and no compensation will be paid for unused sick leave unless stated otherwise in a negotiated contract.

Other permitted uses of sick leave

Sick leave is intended to protect employees against loss of pay due to personal illness. However, up to twenty-four (24) hours of sick leave per year may be used by an employee for illness of a dependent child or spouse. Additional time for this reason may be arranged on an individual case-by-case basis with the approval of the Department Head.

See Small Necessities Leave Act Policy for information on the use of sick time as it applies to this Act.

Evaluation of use of sick leave

The Town has the right and the obligation to evaluate the use of sick leave to determine whether it is being used appropriately. Such evaluation is the responsibility of the Department Head. Sick leave can only be taken:

- For reasons of personal illness or disabling accidents that are not work-related, or;
- For time off (up to 24 hours per year) required because of the illness of a dependent child or spouse, or;
- Under the provisions of the Small Necessities Leave Act.

If an evaluation of sick leave usage suggests abuse of this type of leave, further information may be sought (including medical verification of illness) and, if abuse is apparent, disciplinary action may be warranted. Such disciplinary action will follow procedures outlined in the Disciplinary Action Policy and in specific occupational rules and regulations (if available), and

will comply with requirements of any applicable collective bargaining agreement.

Examples of the kinds of situations that might lead the Department Head to suspect that sick leave is being abused are:

- Patterns of sick leave use, such as Mondays and Fridays;
- Continued utilization of sick leave in increments of one day or less;
- Advance notice given by the employee that s/he will be out sick on a given day;
- An employee calls in sick yet comes into the office on personal business (e.g. to pick up a paycheck);
- Excessive utilization by employees who are terminating employment;
- Absences immediately following a dispute with a supervisor or co-worker;
- An employee who often calls in sick during inclement or beautiful weather, prior to, on or following a holiday or on a day which the employee requested off but whose request was denied; and
- An employee who routinely calls in sick on a holiday or event day such as the first day of a hunting season.

If a Department Head determines that there is sufficient reason to believe that abuse of sick leave has occurred, s/he may require the employee to provide medical verification of illness from a licensed health care provider. This verification must be satisfactory in the judgment of the Department Head and should include the following:

- The date the employee was seen
- The estimated time for which the employee was or will be incapacitated

This verification must be signed by the licensed health care provider that has examined the employee. Failure to provide this medical verification of the use of sick leave could result in denial of payment to the employee for the relevant day or days.

505 Maternity Leave

In accordance with Massachusetts General Laws c.149, §105D and 804 Code of Massachusetts Regulations 8.0, a female employee who has completed her probationary period shall be entitled to leave for a period not exceeding eight weeks for the purpose of giving birth or for adopting a child under the age of

18, or under 23 if the child is mentally or physically handicapped. In order to be eligible for leave under this section, the employee is required to give two weeks' notice in advance of the anticipated date of departure, stating her intention to return and anticipated date of return. Upon her return to work, the employee is entitled to be restored to her previous position, or to a similar position that has the same status and pay as her previous position, and to the length of service credit and seniority as of the date of her leave. Leave under this section shall be unpaid, unless the employee is eligible to apply other leave, such as sick leave or vacation, to which she is entitled. Any leave taken under this section shall be deemed leave taken under the provisions of Family and Medical Leave.

506 Vacation

Vacation is accrued from one year's anniversary date to the next year's anniversary date.

An advance written request from the employee to the supervisor is required if the employee is requesting vacation of one week or more. This request must be at least two weeks prior to the start date of the vacation being requested. Approval will be based upon the scheduling needs of that department/board. If an employee wishes to take vacation in less than full week increments, the supervisor must be notified both verbally and in writing. Please note that all vacations must be pre-approved by the supervisor, based on the scheduling needs of that particular department or board.

Annual vacation with pay will be granted to all eligible employees in the following manner:

- After 1 year of service: 1 week
- After 2 years of service: 2 weeks
- After 5 years of service: 3 weeks
- After 10 years of service: 4 weeks
- After 20 years of service: 5 weeks

Example: If the employee requests a one-week vacation, and a paid holiday occurs during this week, the employee will be paid for holiday rather than having to use a vacation day if employee is eligible for holiday pay.

Although probationary employees shall accrue vacation on a weekly basis, they may not take any accrued vacation until they have completed one year of employment. Probationary employees who are terminated during their probationary period will not be compensated for accrued vacation. Payment for accrued but unused vacation shall be made to any employee who has Completed at least one year of employment.

With the approval of the Department Head, an employee may carry over a maximum of five (5) days of vacation into their next year of employment. The request for vacation carryover must be made in writing at least thirty (30) days prior to the employee's anniversary date and carried-over vacation must be used within two (2) months of the carryover date.

507 Small Necessities Leave

Pursuant to Massachusetts General Law Chapter 149, Sec.59D, eligible employees may take a total of 24 hours of unpaid leave each year for the following purposes:

- To participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as parent-teacher conferences or interviewing for a new school;
- To accompany a son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations;
- To accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services related to the elder's care, such as interviewing at nursing or group homes.

For the purposes of this section, year is defined as the twelve (12) months from one anniversary date of the employee to the next anniversary date.

The employee may substitute accrued paid sick or personal leave for any or all of the 24 hours of unpaid leave under this section. An eligible employee need not take the entire 24 hour leave at once, but may take a few hours of this leave time depending on the employee's needs, as long as the total leave does not exceed 24 hours during the applicable twelve (12) month period. Employees may take the leave in minimum increments of no less than 4 hours.

Notice requirement: To be eligible for the leave period, an employee must

request the leave no later than seven (7) days in advance; if the need for the leave is unforeseeable, the employee must notify his/her supervisor as soon as is practicable.

For additional details on the provisions of the Small Necessities Leave Act, please contact the Human Resources Advisory Board.

508 Family and Medical Leave

Employees who have completed at least twelve (12) months of employment with the Town and who have worked at least 1,250 hours during the preceding twelve (12) months are eligible for Family and Medical Leave.

Eligible employees will be granted a leave for up to twelve (12) weeks during any 12-month period for:

- Family leave due to the birth, adoption or placement of a child (foster care);
- Medical leave due to an employee's serious health condition;
- Medical leave due to an employee's care of a spouse, child or parent who has a serious health condition.

At least thirty (30) days in advance, the employee shall submit to the Department Head or Appointing Authority, if there is no Department Head, a written notice of his/her intent to take family or medical leave and the dates and expected duration of the leave. If thirty (30) days' notice is not possible, the employee shall give notice as soon as practical.

In connection with family leave, employees shall, upon request by the Department Head or Appointing Authority, provide proof of birth, adoption or placement of a child.

In connection with medical leave, employees shall upon request of the Department Head or Appointing Authority provide medical certification that shall include:

- In the case of the employee's illness, a statement by the licensed health care provider on letterhead listing the provider's address and telephone number, that the provider has personally examined the employee, identification of the serious medical condition unless it is confidential in nature with date of onset and probable duration, and stating that the employee is unable to perform his/

her duties due to the specific illness or injury on the days in question;

- In the case of care for a spouse, child or parent, a statement by the licensed health care provider on letterhead listing the provider's address and telephone number, that the spouse, child or parent has been determined to be seriously ill and needing care on the days in question.

Employees must provide certifications requested under this section within fifteen (15) days of being asked to do so.

The Appointing Authority may require, at the Town's expense, a second opinion from a licensed health care provider designated by the Town. If there is a conflict between the second opinion and the original medical certification, the Appointing Authority may seek a third opinion, at the Town's expense, from a licensed health care provider designated or approved by both the Town and the employee.

Employees may be required to provide re-certification including the employee's affirmative commitment to return to work and anticipated date of return after each thirty (30)-day period of medical leave, or at shorter intervals if the employee requests an extension of leave; if there are significant changes from the original certification circumstances; or if the Town receives information which casts doubt on the validity of the certification.

Employees may request medical leave on an intermittent leave, or reduced work, schedule if medically necessary or if necessary to provide care for a family member. When such leave is requested, every effort shall be made to meet the employee's needs without unduly disrupting the Town's operations.

Leave under this section shall be unpaid unless an employee applies other paid leave benefits that may be available, such as vacation leave or sick leave. Use of such paid leave will not extend the total length of leave time available under this section beyond twelve (12) weeks in a twelve (12)-month rolling period.

Employees who are on family or medical leave shall not be eligible for any holiday pay or other compensation for any holidays that occur during the leave.

During the time an employee is on unpaid family or medical leave, the employee shall be entitled to group health insurance coverage on the same

terms and conditions in effect at the time the leave began, provided the employee pays the required employee share of premium while on leave. If the employee fails to return to work from unpaid leave, the Town may recover from the employee the cost incurred in maintaining insurance coverage for the duration of the employee's leave.

At the expiration of family or medical leave, the employee will be returned to the same or equivalent position with the same status, pay and length of service as of the start of the leave. If, during the period of the leave, employees in an equivalent position have been laid off through no fault of their own, the employee will be extended the same rights or benefits, if any, extended to employees of equal length of service in the equivalent position in the department.

509 Personal Leave

All full time employees and part-time employees with benefits, having completed six (6) months continuous service, are entitled to two (2) paid personal days each year. Personal days must be scheduled with the approval of the Department Head at least two (2) weeks prior to their contemplated use. Personal days are not to be used as vacation and may not be combined with vacation leave or holidays. Personal days cannot be carried over from year to year, and they are forfeited when employment ends for any reason.

510 Special Leave

Special unpaid leave may be granted for observance of official religious obligations that are not recognized as a holiday by the Town. An employee wishing to take special leave should submit a request to the Department Head at least forty-eight (48) hours in advance of such leave.

511 Other Leave of Absence

Reasonable requests for other leaves of absence may be granted by the Department Head with the approval of the Town Administrator.

PERSONNEL POLICIES & PROCEDURES
For The
Town of Hubbardston

Attachment A
OPEN MEETING LAW

Excerpt of the Attorney General's Open Meeting Law Guide

Overview

Purpose of the Law

The purpose of the Open Meeting Law is to ensure transparency in the deliberations on which public policy is based. Because the democratic process depends on the public having knowledge about the considerations underlying governmental action, the Open Meeting Law requires, with some exceptions, that meetings of public bodies be open to the public. It also seeks to balance the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations efficiently.

Attorney General's Authority

The Open Meeting Law was revised as part of the 2009 Ethics Reform Bill, and now centralizes responsibility for statewide enforcement of the law in the Attorney General's Office. G.L. c. 30A, § 19(a). To help public bodies understand and comply with the law, the Attorney General has created the Division of Open Government. The Division of Open Government provides training, responds to inquiries, investigates complaints, and when necessary, makes findings and orders remedial action to address violations of the law. The purpose of this Guide is to inform elected and appointed members of public bodies, as well as the interested public, of the basic requirements of the law.

Certification

Within two weeks of a member's election or appointment or the taking of the oath of office, whichever occurs later, all members of public bodies must complete the attached Certificate of Receipt of Open Meeting Law Materials certifying that they have received these materials, and that they understand the requirements of the Open Meeting Law and the consequences of violating it. The certification must be retained where the public body maintains its official records. All public body members should familiarize themselves with the Open Meeting Law, the Attorney General's regulations, and this Guide.

In the event a Certificate has not yet been completed by a presently serving member of a public body, the member should complete and submit the Certificate at the earliest opportunity to be considered in compliance with the law.

This Guide is intended to be a clear and concise explanation of the Open Meeting Law's requirements. The complete law, as well as the Attorney General's regulations, training materials, and determinations and declinations as to complaints can be found on the Attorney General's Open Meeting website, www.mass.gov/ago/openmeeting. Members of public bodies, other local and state government officials, and the public are Open Meeting Law Guide Page 3 Version 3.18.15

encouraged to visit the website regularly for updates on the law and the Attorney General's interpretations of it.

What meetings are covered by the Open Meeting Law?

With certain exceptions, all meetings of a public body must be open to the public. A meeting is generally defined as "a deliberation by a public body with respect to any matter within the body's jurisdiction." As explained more fully below, a deliberation is a communication between or among members of a public body.

These four questions will help determine whether a communication constitutes a meeting subject to the law:

- 1) is the communication between or among members of a **public body**;
- 2) if so, does the communication constitute a **deliberation**;
- 3) does the communication involve a matter within the body's **jurisdiction**; and
- 4) if so, does the communication fall within an **exception** listed in the law?

What constitutes a public body?

While there is no comprehensive list of public bodies, any multi-member board, commission, committee or subcommittee within the executive or legislative branches¹ of state government, or within any county, district, city, region or town, if established to serve a public purpose, is subject to the law. The law includes any multi-member body created to advise or make recommendations to a public body, and also includes the governing board of any local housing or redevelopment authority, and the governing board or body of any authority established by the Legislature to serve a public purpose. The law excludes the Legislature and its committees, bodies of the judicial branch, and bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer.

1 Although the Legislature itself is not a public body subject to the Open Meeting Law, certain legislative commissions must follow the Law's requirements.

Boards of selectmen and school committees (including those of charter schools) are certainly subject to the Open Meeting Law, as are subcommittees of public bodies, regardless of whether their role is decision-making or advisory. Individual government officials, such as a town manager or police chief, and members of their staff are not subject to the law, and so they may meet with one another to discuss public business without needing to comply with Open Meeting Law requirements. This exception for individual officials to the general Open Meeting Law does not apply where such officials are serving as members of a multiple-member public body that is subject to the law.

Bodies appointed by a public official solely for the purpose of advising the official on a decision that individual could make alone are not public bodies subject to the Open Meeting Law. For example, a school superintendent appoints a five-member advisory body to assist her in nominating candidates for school principal, a task the

What are the exceptions to the definition of a meeting?

There are five exceptions to the definition of a meeting under the Open Meeting Law.

1. Members of a public body may conduct an on-site inspection of a project or program; however, they may not deliberate at such gatherings;
2. Members of a public body may attend a conference, training program or event; however, they may not deliberate at such gatherings;
3. Members of a public body may attend a meeting of another public body provided that they communicate only by open participation; however, they may not deliberate at such gatherings;
4. Meetings of quasi-judicial boards or commissions held solely to make decisions in an adjudicatory proceeding are not subject to the Open Meeting Law; and
5. Town Meetings, which are subject to other legal requirements, are not governed by the Open Meeting Law. See, e.g. G.L. c. 39, §§ 9, 10 (establishing procedures for Town Meeting).

The Attorney General interprets the exemption for “quasi-judicial boards or commissions” to apply only to certain state “quasi-judicial” bodies and a very limited number of public bodies at other levels of government whose proceedings are specifically defined as “agencies” for purposes of G.L. c. 30A.

We have received several inquiries about the exception for Town Meeting and whether it applies to meetings outside of a Town Meeting session by Town Meeting members or Town Meeting committees or to deliberation by members of a public body – such as a board of selectmen – during a session of Town Meeting. The Attorney General interprets this exemption to mean that the Open Meeting Law does not reach any aspect of Town Meeting. Therefore, the Attorney General will not investigate complaints alleging violations in these situations. Note, however, that this is a matter of interpretation and future Attorneys General may choose to apply the law in such situations.

What are the requirements for posting notice of meetings?

Except in cases of emergency, a public body must provide the public with notice of its meeting 48 hours in advance, excluding Saturdays, Sundays, and legal holidays. Notice of emergency meetings must be posted as soon as reasonably possible prior to the meeting. Also note that other laws, such as those governing procedures for public hearings, may require additional notice.

What are the requirements for filing and posting meeting notices for local public bodies?

For local public bodies, meeting notices must be filed with the municipal clerk with enough time to permit posting of the notice at least 48 hours in advance of the public meeting. Notices may be posted on a bulletin board, in a loose-leaf binder, or on an electronic display (e.g. television, computer monitor, or an electronic bulletin board), provided that the notice is conspicuously visible to the public at all hours in or on the municipal building in which the

clerk's office is located. In the event that the meeting notices posted in the municipal building are not visible to the public at all hours, then the municipality must either post notices on the outside of the building or follow one of these alternative posting methods approved by the Attorney General in 940 CMR 29.03(2)(b):

- public bodies may post notice of meetings on the municipal website;
- public bodies may post notice of meetings on cable television, **AND**, post notice or provide cable television access in an alternate municipal building (e.g., police or fire station) where the notice is accessible at all hours;
- public bodies may post notice of meetings in a newspaper of general circulation in the municipality, **AND**, post notice or a copy of the newspaper containing the meeting notice at an alternate municipal building (e.g., police or fire station) where the notice is accessible at all hours;
- public bodies may place a computer monitor or electronic or physical bulletin board displaying meeting notices on or in a door, window, or near the entrance of the municipal building in which the clerk's office is located in such a manner as to be visible to the public from outside the building; or
- public bodies may provide an audio recording of meeting notices, available to the public by telephone at all hours.

Prior to utilizing an alternative posting method, the clerk of the municipality must inform the Division of Open Government of its notice posting method and must inform the Division of any future changes to that posting method. Public bodies must consistently use the most current notice posting method on file with the Division. A description of the alternative posting method must also be posted on or adjacent to the main and handicapped accessible entrances to the building where the clerk's office is located. Note that, even if an alternative posting method has been adopted, meeting notices must still be available in or around the clerk's office so that members of the public may view the notices during normal business hours.

What are the requirements for posting notices for regional, district, county and state public bodies?

- For regional or district public bodies and regional school districts, meeting notices must be filed and posted in the same manner required of local public bodies in each of the communities within the region or district. As an alternative method of notice, a regional or district public body may post a meeting notice on the regional or district public body's website. A copy of the notice must be filed and kept by the chair of the public body or the chair's designee.

- County public bodies must file meeting notices in the office of the county commissioners and post notice of the meeting in a manner conspicuously visible to the public at all hours at a place or places designated by the county commissioners for notice postings. As an alternative method of notice, a county public body may post notice of meetings on the county public body's website. A copy of the notice shall be filed and kept by the chair of the county public body or the chair's designee.

- State public bodies must file meeting notices by posting the notice on the website of the public body or its parent agency. The chair of a state public body must notify the Attorney General in writing of the website address where notices will be posted, and of any subsequent changes to that posting location. A copy of each meeting notice must also be sent to the Secretary of State's Regulations Division and should be forwarded to the Executive Office of Administration and Finance, which maintains a listing of state public body meetings.

A note about accessibility:

Public bodies are subject to all applicable state and federal laws that govern accessibility for persons with disabilities. These laws include the Americans with Disabilities Act, the federal Rehabilitation Act of 1973, and state constitutional provisions. For instance, public bodies that adopt website posting as an alternative method of notice must ensure that the website utilizes technology that is readily accessible to people with disabilities, including individuals who use screen readers. All open meetings of public bodies must be accessible to persons with disabilities. Meeting locations must be accessible by wheelchair, without the need for special assistance. Also sign language interpreters for deaf or hearing-impaired persons must be provided, subject to reasonable advance notice.³ The Attorney General's Disability Rights Project is available to answer questions about accessibility and may be reached at

³ The Massachusetts Commission for the Deaf and Hard of Hearing will assist with arrangements for a sign language interpreter. The Commission may be reached at 617-740-1600 VOICE and 617-740-1700 TTY. (617) 963-2939.

What information must meeting notices contain?

Meeting notices must be posted in a legible, easily understandable format; contain the date, time, and place of the meeting; and list all topics that the chair reasonably anticipates, 48 hours in advance, will be discussed at the meeting. The list of topics must be sufficiently specific to reasonably inform the public of the issues to be discussed at the meeting. Where there are no anticipated topics for discussion in open session other than the procedural requirements for convening an executive session, the public body should list "open session" as a topic, in addition to the executive session, so the public is aware that it has the opportunity to attend and learn the basis for the executive session. Open Meeting Law Guide Page 8 Version 3.18.15

Meeting notices must also indicate the date and time that the notice was posted, either on the notice itself or in a document or website accompanying the notice. If a notice is revised, the revised notice must also conspicuously record both the date and time the original notice was posted as well as the date and time the last revision was posted. Recording the date and time enables the public to observe that public bodies are complying with the Open Meeting Law's notice requirements without requiring constant vigilance. Additionally, in the event of a complaint, it provides the Attorney General with evidence of compliance with those requirements.

If a discussion topic is proposed after a meeting notice is posted, and it was not reasonably anticipated by the chair more than 48 hours before the meeting, the public body should update its posting to provide the public with as much notice as possible of what subjects will be discussed during the meeting. Although a public body may consider a topic that was not listed in the meeting notice if it was not anticipated, the Attorney General strongly encourages public bodies to postpone discussion and action on topics that are controversial or may be of particular interest to the public if the topic was not listed in the meeting notice.

When can a public body meet in executive session?

While all meetings of public bodies must be open to the public, certain topics may be discussed in executive, or closed, session. Before going into an executive session, the chair of the public body must first:

- Convene in open session;
- State the reason for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
- State whether the public body will reconvene in open session at the end of the executive session; and
- Take a roll call vote of the body to enter executive session.

Where a public body member is participating in an executive session remotely, the member must state at the start of the executive session that no other person is present or able to hear the discussion at the remote location. The public body may authorize, by a simple majority vote, the presence and participation of other individuals at the remote participant's location. While in executive session, the public body must keep accurate records, all votes taken must be recorded by roll call, and the public body may only discuss matters for which the executive session was called.

The Ten Purposes for Executive Session

The law states ten specific purposes for which an executive session may be held, and emphasizes that these are the only reasons for which a public body may enter executive session. Open Meeting Law Guide Page 9 Version 3.18.15

The ten purposes for which a public body may vote to hold an executive session are:

1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties.

This purpose is designed to protect the rights and reputation of individuals. Nevertheless, where a public body is discussing an employee evaluation, considering applicants for a position, or discussing the qualifications of any individual, these discussions should be held in open session to the extent that the discussion deals with issues other than the reputation, character, health, or any complaints or charges against the individual. An executive session called for this purpose triggers certain rights for the individual who is the subject of the discussion. The individual has the right to be present, though he or she may choose not to attend. The individual who is the subject of the discussion may also choose to have the discussion in an open meeting, and that choice takes precedence over the right of the public body to go into executive session.

While the imposition of disciplinary sanctions by a public body on an individual fits within this purpose, this purpose does not apply if, for example, the public body is deciding whether to lay off a large number of employees because of budgetary constraints.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;

Generally, a public body must identify the specific non-union personnel or collective bargaining unit with which it is negotiating before entering into executive session under Purpose 2. A public body may withhold the identity of the non-union personnel or bargaining unit if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

While a public body may agree on terms with individual non-union personnel in executive session, the final vote to execute such agreements must be taken by the public body in open session. In contrast, a public body may approve final terms and execute a collective bargaining agreement in executive session, but should promptly disclose the agreement in open session following its execution.

Collective Bargaining Sessions: These include not only the bargaining sessions, but also include grievance hearings that are required by a collective bargaining agreement.

3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;

Generally, a public body must identify the collective bargaining unit with which it is negotiating or the litigation matter it is discussing before entering into executive session under Purpose 3. A public body may withhold the identity of the collective bargaining unit or name of the litigation matter if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

Collective Bargaining Strategy: Discussions with respect to collective bargaining strategy include discussion of proposals for wage and benefit packages or working conditions for union employees. The public body, if challenged, has the burden of proving that an open meeting might have a detrimental effect on its bargaining position. The showing that must be made is that an open discussion may have a detrimental effect on the collective bargaining process; the body is not required to demonstrate a definite harm that would have arisen. At the time the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's bargaining or litigating position.

Litigation Strategy: Discussions concerning strategy with respect to ongoing litigation obviously fit within this purpose but only if an open meeting may have a detrimental effect on the litigating position of the public body. Discussions relating to potential litigation are not covered by this exemption unless that litigation is clearly and imminently threatened or otherwise demonstrably likely. That a person is represented by counsel and supports a position adverse to the public body's does not by itself mean that litigation is imminently threatened or likely. Nor does the fact that a newspaper reports a party has threatened to sue necessarily mean imminent litigation.

Note: For the reasons discussed above, a public body's discussions with its counsel do not automatically fall under this or any other purpose for holding an executive session.

4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;

5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;

This purpose permits an executive session to investigate charges of criminal misconduct and to consider the filing of criminal complaints. Thus, it primarily involves discussions that would precede the formal criminal process in court. Purpose 1 is related, in that it permits an executive session to discuss certain complaints or charges, which may include criminal

complaints or charges, but only those that have already been brought. However Purpose 1 confers certain rights of participation on the individual involved, as well as the right for the individual to insist that the discussion occur in open session. Purpose 5 does not require that the same rights be given to the person who is the subject of a criminal complaint. To the limited extent that there is overlap between Purposes 1 and 5, a public body has discretion to choose which purpose to invoke when going into executive session.

6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;

Generally, a public body must identify the specific piece of property it plans to discuss before entering into executive session under Purpose 6. A public body may withhold the identity of the property if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

Under this purpose, as with the collective bargaining and litigation purpose, an executive session may be held only where an open meeting may have a detrimental impact on the body's negotiating position with a third party. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's negotiating position.

7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;

There may be provisions in state statutes or federal grants that require or specifically allow a public body to consider a particular issue in a closed session. Before entering executive session under this purpose, the public body must cite the specific law or federal grant-in-aid requirement that necessitates confidentiality. A public body may withhold that information only if publicly disclosing it would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;

This purpose permits a hiring subcommittee of a public body or a preliminary screening committee to conduct the initial screening process in executive session. This purpose does not

apply to any stage in the hiring process after the screening committee or subcommittee votes to recommend candidates to its parent body. It may, however, include a review of resumés and multiple rounds of interviews by the screening committee aimed at narrowing the group of applicants down to finalists. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session will be detrimental to the public body's ability to attract qualified applicants for the position. If the public body opts to convene a preliminary screening committee, the committee must contain less than a quorum of the members of the parent public body. The committee may also contain members who are not members of the parent public body.

Note that a public body is not required to create a preliminary screening committee to consider or interview applicants. However, if the body chooses to conduct the review of applicants itself, it may not do so in executive session.

9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:

- (i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and
- (ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session.

10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided:

- in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164;
- in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164; or
- in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164;
- when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

May a member of a public body participate remotely?

The Attorney General's Regulations, 940 CMR 29.10, permit remote participation in certain circumstances. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of the Open Meeting Law, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

Note that the Attorney General's regulations enable members of public bodies to participate remotely if the practice has been properly adopted, but do not require that a public body permit members of the public to participate remotely. If a public body chooses to allow individuals who are not members of the public body to participate remotely in a meeting, it may do so without following the Open Meeting Law's remote participation procedures.

How can the practice of remote participation be adopted?

Remote participation may be used during a meeting of a public body if it has first been adopted by the chief executive officer of the municipality for local public bodies, the county commissioners for county public bodies, or by a majority vote of the public body for retirement boards, district, regional and state public bodies. The chief executive officer may be the board of selectmen, the city council, or the mayor, depending on the municipality. See G.L. c. 4, § 7.

If the chief executive officer in a municipality authorizes remote participation, that authorization applies to all public bodies in the municipality. 940 CMR 29.10(2)(a). However, the chief executive officer determines the amount and source of payment for any costs associated with remote participation and may decide to fund the practice only for certain public bodies. See 940 CMR 29.10(6)(e). In addition, the chief executive officer can authorize public bodies in that municipality to "opt out" of the practice altogether. See 940 CMR 29.10(8).

Note about Local Commissions on Disability: Beginning on April 7, 2015, local commissions on disability may decide by majority vote of the commissioners at a regular meeting to permit remote participation during a specific meeting or during all commission meetings. G.L. c. 30A, § 20(e). Adoption by the municipal adopting authority is not required.

What are the permissible reasons for remote participation?

Once remote participation is adopted, any member of a public body may participate remotely if the chair (or, in the chair's absence, the person chairing the meeting) determines that one of the following factors makes the member's physical attendance unreasonably difficult:

1. Personal illness;
2. Personal disability;
3. Emergency;
4. Military service; or
5. Geographic distance.

What are the acceptable means of remote participation?

Acceptable means of remote participation include telephone, internet, or satellite enabled audio or video conferencing, or any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another. Text messaging, instant messaging, email and web chat without audio are not acceptable methods of remote participation. Note that accommodations must be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications.

What are the minimum requirements for remote participation?

Any public body using remote participation during a meeting must ensure that the following minimum requirements are met:

1. A quorum of the body, including the chair or, in the chair's absence, the person chairing the meeting, must be physically present at the meeting location;
2. Members of a public body who participate remotely and all persons present at the meeting location must be clearly audible to each other; and
3. All votes taken during a meeting in which a member participates remotely must be by roll call vote.

What procedures must be followed if remote participation is used at a meeting?

At the start of any meeting during which a member of a public body will participate remotely, the chair must announce the name of any member who is participating remotely and which of the five reasons listed above requires that member's remote participation. The chair's statement does not need to contain any detail about the reason for the member's remote participation other than the section of the regulation that justifies it. This information must also be recorded in the meeting minutes.

Members of public bodies who participate remotely may vote and shall not be deemed absent for purposes of G.L. c. 39, § 23D. In addition, members who participate remotely may participate in executive sessions but must state at the start of any such session that no other person is present or able to hear the discussion at the remote location, unless the public body has approved the presence of that individual.

If technical difficulties arise as a result of utilizing remote participation, the chair (or, in the chair's absence, person chairing the meeting) may decide how to address the situation. Public bodies are encouraged, whenever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If a remote participant is disconnected from the meeting, the minutes must note that fact and the time at which the disconnection occurred.

What public participation in meetings must be allowed?

Under the Open Meeting Law, the public is permitted to attend meetings of public bodies but is excluded from an executive session that is called for a valid purpose listed in the law. While the public is permitted to attend an open meeting, an individual may not address the public body without permission of the chair. An individual may not disrupt a meeting of a public body, and at the request of the chair, all members of the public shall be silent. If, after clear warning, a person continues to be disruptive, the chair may order the person to leave the meeting. If the person does not leave, the chair may authorize a constable or other officer to remove the person. Although public participation is entirely within the chair's discretion, the Attorney General encourages public bodies to allow as much public participation as time permits.

Any member of the public may make an audio or video recording of an open session of a public meeting. A member of the public who wishes to record a meeting must first notify the chair and must comply with reasonable requirements regarding audio or video equipment established by the chair so as not to interfere with the meeting. The chair is required to inform other attendees of any such recording at the beginning of the meeting. If someone arrives after the meeting has begun and wishes to record a meeting, that person should attempt to notify the chair prior to beginning recording, ideally in a manner that does not significantly disrupt the meeting in progress (such as passing a note for the chair to the board administrator or secretary). The chair should endeavor to acknowledge such attempts at notification and announce the fact of any recording to those in attendance.

What records of public meetings must be kept?

Public bodies are required to create and maintain accurate minutes of all meetings, including executive sessions. The minutes, which must be created and approved in a timely manner, must include:

- the date, time and place of the meeting;
- the members present or absent;
- the decisions made and actions taken, including a record of all votes;
- a summary of the discussions on each subject;
- a list of all documents and exhibits used at the meeting; and
- the name of any member who participated in the meeting remotely, along with the reason under 940 CMR 29.10(5) for his or her remote participation.

While the minutes must include a summary of the discussions on each subject, a transcript is not required. No vote taken by a public body, either in an open or in an executive session, shall be by secret ballot. All votes taken in executive session must be by roll call and the results recorded in the minutes. While public bodies must identify in the minutes all documents and exhibits used at a meeting and must retain them in accordance with the Secretary of State's records retention schedule, these documents and exhibits needn't be attached to or physically stored with the minutes.

What is the Attorney General's role in enforcing the Open Meeting Law?

The Attorney General's Division of Open Government is responsible for enforcing the Open Meeting Law. The Attorney General has the authority to receive and investigate complaints, bring enforcement actions, issue advisory opinions, and promulgate regulations.

The Division of Open Government regularly seeks feedback from the public on ways in which it can better support public bodies to help them comply with the law's requirements. The Division of Open Government offers periodic online and in-person training on the Open Meeting Law and will respond to requests for guidance and information from public bodies and the public.

The Division of Open Government will take complaints from members of the public and will work with public bodies to resolve problems. While any member of the public may file a complaint with a public body alleging a violation of the Open Meeting Law, a public body need not, and the Division of Open Government will not, investigate anonymous complaints.

What is the Open Meeting Law complaint procedure?

Step 1. Filing a Complaint with the Public Body

Individuals who allege a violation of the Open Meeting Law must first file a complaint *with the public body* alleged to have violated the OML. The complaint must be filed within 30 days of the date of the violation, or the date the complainant could reasonably have known of the violation. The complaint must be filed on a Complaint Form available on the Attorney General's website, www.mass.gov/ago/openmeeting. When filing a complaint with a local public body, the complainant must also file a copy of the complaint with the municipal clerk.

Step 2. The Public Body's Response

Upon receipt, the chair of the public body should distribute copies of the complaint to the members of the public body for their review. The public body has 14 business days from the date of receipt to review the complainant's allegations, take remedial action if appropriate, notify the complainant of the remedial action, and forward a copy of the complaint and description of the remedial action taken to the Attorney General. While the public body may delegate responsibility for responding to the complaint to counsel or another individual, it must first meet to do so.

The public body may request additional information from the complainant. The public body may also request an extension of time to respond to the complaint. A request for an extension should be made within 14 business days of receipt of the Open Meeting Law Guide. The request for an extension should be made in writing to the Division of Open Government and should include a copy of the complaint and state the reason for the requested extension.

Step 3. Filing a Complaint with the Attorney General's Office

A complaint is ripe for review by the Attorney General 30 days after the complaint is filed with the public body. This 30-day period is intended to provide a reasonable opportunity for

the complainant and the public body to resolve the initial complaint. It is important to note that complaints are **not** automatically treated as filed for review by the Attorney General upon filing with the public body. A complainant who has filed a complaint with a public body and seeks further review by the Division of Open Government must file the complaint with the Attorney General after the 30-day local review period has elapsed but before 90 days have passed since the date of the violation or the date that the violation was reasonably discoverable.

When filing the complaint with the Attorney General, the complainant must include a copy of the original complaint and may include any other materials the complainant feels are relevant, including an explanation of why the complainant is not satisfied with the response of the public body. Note, however, that the Attorney General will not review allegations that were not raised in the initial complaint filed with the public body. Under most circumstances, complaints filed with the Attorney General, and any documents submitted with the complaint, will be considered a public record and will be made available to anyone upon request.

The Attorney General will review the complaint and any remedial action taken by the public body. The Attorney General may request additional information from both the complainant and the public body. The Attorney General will seek to resolve complaints in a reasonable period of time, generally within 90 days of the complaint becoming ripe for review by our office. The Attorney General may decline to investigate a complaint that is filed with our office more than 90 days after the date of the alleged violation.

When a violation of the law is considered “intentional”?

Upon finding a violation of the Open Meeting Law, the Attorney General may impose a civil penalty upon a public body of not more than \$1,000 for each intentional violation. G.L. c. 30A, § 23(c)(4). An “intentional violation” is an act or omission by a public body or public body member in knowing violation of the Open Meeting Law. G.L. c. 30A, § 18. In determining whether a violation was intentional, the Attorney General will consider, among other things, whether the public body or public body member 1) acted with specific intent to violate the law; 2) acted with deliberate ignorance of the law’s requirements; or 3) had been previously informed by a court decision or advised by the Attorney General that the conduct at issue violated the Open Meeting Law. 940 CMR 29.02. If a public body or public body member made a good faith attempt at compliance with the law but was reasonably mistaken about its requirements or, after full disclosure, acted in good faith compliance with the advice of counsel, its conduct will not be considered an intentional violation of the Law. G.L. c. 30A, § 23(g); 940 CMR 29.02.

Will the Attorney General’s Office provide training on the Open Meeting Law?

The Open Meeting Law directs the Attorney General to create educational materials and provide training to public bodies to foster awareness of and compliance with the Open Meeting Law. The Attorney General has established an Open Meeting Law website, www.mass.gov/ago/openmeeting, on which government officials and members of public

bodies can find the statute, regulations, FAQs, training materials, the Attorney General's determination letters resolving complaints, and other resources. The Attorney General offers periodic webinars and in-person regional training events for members of the public and public bodies, in addition to offering a free online training video.

Contacting the Attorney General

If you have any questions about the Open Meeting Law or anything contained in this guide, please contact the Attorney General's Division of Open Government. The Attorney General also welcomes any comments, feedback, or suggestions you may have about the Open Meeting Law or this guide.

Division of Open Government

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THE COMMONWEALTH OF MASSACHUSETTS
OPEN MEETING LAW, G.L. c. 30A, §§18-25

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This version of the law is current as of April 7, 2015.

NOTICE: This is NOT the official version of the Massachusetts General Law (MGL). While reasonable efforts have been made to ensure the accuracy and currency of the data provided, do not rely on this information without first checking an official edition of the MGL.

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Section 18: [DEFINITIONS]

As used in this section and sections 19 to 25, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Deliberation”, an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that “deliberation” shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

“Emergency”, a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

“Executive session”, any part of a meeting of a public body closed to the public for deliberation of certain matters.

“Intentional violation”, an act or omission by a public body or a member thereof, in knowing violation of the open meeting law.

“Meeting”, a deliberation by a public body with respect to any matter within the body’s jurisdiction; provided, however, “meeting” shall not include:

- (a) an on-site inspection of a project or program, so long as the members do not deliberate;
- (b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate;
- (c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;
- (d) a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or
- (e) a session of a town meeting convened under section 9 of chapter 39 which would include the attendance by a quorum of a public body at any such session.

“Minutes”, the written report of a meeting created by a public body required by subsection (a) of section 22 and section 5A of chapter 66.

“Open meeting law”, sections 18 to 25, inclusive.

“Post notice”, to display conspicuously the written announcement of a meeting either in hard copy or electronic format.

“Preliminary screening”, the initial stage of screening applicants conducted by a committee or subcommittee of a public body solely for the purpose of providing to the public body a list of those applicants qualified for further consideration or interview.

“Public body”, a multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that “public body” shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

“Quorum”, a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision.

Section 19. [Division of Open Government; Open Meeting Law Training; Open Meeting Law Advisory Commission; Annual Report]

(a) There shall be in the department of the attorney general a division of open government under the direction of a director of open government. The attorney general shall designate an assistant attorney general as the director of the open government division. The director may appoint and remove, subject to the approval of the attorney general, such expert, clerical and other assistants as the work of the division may require. The division shall perform the duties imposed upon the attorney general by the open meeting law, which may include participating, appearing and intervening in any administrative and judicial proceedings pertaining to the enforcement of the open meeting law. For the purpose of such participation, appearance, intervention and training authorized by this chapter the attorney general may expend such funds as may be appropriated therefor.

(b) The attorney general shall create and distribute educational materials and provide training to public bodies in order to foster awareness and compliance with the open meeting law. Open meeting law training may include, but shall not be limited to, instruction in:

(1) the general background of the legal requirements for the open meeting law; (2) applicability of sections 18 to 25, inclusive, to governmental bodies; (3) the role of the attorney general in enforcing the open meeting law; and (4) penalties and other consequences for failure to comply with this chapter.

(c) There shall be an open meeting law advisory commission. The commission shall consist of 5 members, 2 of whom shall be the chairmen of the joint committee on state administration and regulatory oversight; 1 of whom shall be the president of the Massachusetts Municipal Association or his designee; 1 of whom shall be the president of the Massachusetts Newspaper Publishers Association or his designee; and 1 of whom shall be the attorney general or his designee.

The commission shall review issues relative to the open meeting law and shall submit to the attorney general recommendations for changes to the regulations, trainings, and educational initiatives relative to the open meeting law as it deems necessary and appropriate.

(d) The attorney general shall, not later than January 31, file annually with the commission a report providing information on the enforcement of the open meeting law during the preceding calendar year. The report shall include, but not be limited to:

(1) the number of open meeting law complaints received by the attorney general; (2) the number of hearings convened as the result of open meeting law complaints by the attorney general; (3) a summary of the determinations of violations made by the attorney general; (4) a summary of the orders issued as the result of the determination of an open meeting law violation by the attorney general; (5) an accounting of the fines obtained by the attorney general as the result of open meeting law enforcement actions; (6) the number of actions filed in superior court seeking relief from an order of the attorney general; and (7) any additional information relevant to the administration and enforcement of the open meeting law that the attorney general deems appropriate.

Section 20. [Meetings of a Public Body to be Open to the Public; Notice of Meeting; Remote Participation; Recording and Transmission of Meeting; Removal of Persons for Disruption of Proceedings]

(a) Except as provided in section 21, all meetings of a public body shall be open to the public.

(b) Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.

(c) For meetings of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

For meetings of a regional or district public body, notice shall be filed and posted in each city or town within the region or district in the manner prescribed for local public bodies. For meetings of a regional school district, the secretary of the regional school district committee shall be considered to be its clerk and shall file notice with the clerk of each city or town within such district and shall post the notice in the manner prescribed for local public bodies. For meetings of a county public body, notice shall be filed in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose.

For meetings of a state public body, notice shall be filed with the attorney general by posting on a website under the procedures established for this purpose and a duplicate copy of the notice shall be filed with the regulations division of the state secretary's office.

The attorney general may prescribe or approve alternative methods of notice where the attorney general determines the alternative methods will afford more effective notice to the public.

(d) The attorney general may by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided, further, that a quorum of the body, including the chair, are present at the meeting location. The authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39.

(e) A local commission on disability may by majority vote of the commissioners at a regular meeting permit remote participation applicable to a specific meeting or generally to all of the commission's meetings; provided, however, that the commission shall comply with all other requirements of law and regulation.

(f) After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the chair shall inform other attendees of any recordings.

(g) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.

(h) Within 2 weeks of qualification for office, all persons serving on a public body shall certify, on a form prescribed by the attorney general, the receipt of a copy of the open

meeting law, regulations promulgated under section 25 and a copy of the educational materials prepared by the attorney general explaining the open meeting law and its application pursuant to section 19. Unless otherwise directed or approved by the attorney general, the appointing authority, city or town clerk or the executive director or other appropriate administrator of a state or regional body, or their designees, shall obtain certification from each person upon entering service and shall retain it subject to the applicable records retention schedule where the body maintains its official records. The certification shall be evidence that the member of a public body has read and understands the requirements of the open meeting law and the consequences of violating it.

Section 21. [EXECUTIVE SESSIONS]

(a) A public body may meet in executive session only for the following purposes:

1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:

i. to be present at such executive session during deliberations which involve that individual; ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session; iii. to speak on his own behalf; and iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel; 3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares; 4. To discuss the deployment of security personnel or devices, or strategies with respect thereto; 5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints; 6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body; 7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;

8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants;

provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening; 9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:

(i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and (ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session; or

10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

(b) A public body may meet in closed session for 1 or more of the purposes enumerated in subsection (a) provided that:

1. the body has first convened in an open session pursuant to section 21; 2. a majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes; 3. before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called; 4. the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and 5. accurate records of the executive session shall be maintained pursuant to section 23.

Section 22. [Meeting Minutes; Records]

(a) A public body shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.

(b) No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes.

(c) Minutes of all open sessions shall be created and approved in a timely manner. The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days.

(d) Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session.

(e) The minutes of any open session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, shall be public records in their entirety and not exempt from disclosure pursuant to any of the exemptions under clause Twenty-sixth of section 7 of chapter 4. Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt.

(f) The minutes of any executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer; provided, however, that the executive session was held in compliance with section 21.

When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

For purposes of this subsection, if an executive session is held pursuant to clause (2) or (3) of subsections (a) of section 21, then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no longer jeopardized by such disclosure, at which time they shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

(g)(1) The public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if the provisions of this subsection warrant continued non-disclosure. Such determination shall be announced at the body's next meeting and such announcement shall be included in the minutes of that meeting.

(2) Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the body shall respond to the request within 10 days following receipt and shall release any such minutes not covered by an exemption under subsection (f); provided, however, that if the body has not

performed a review pursuant to paragraph (1), the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs. A public body shall not assess a fee for the time spent in its review.

Section 23. [Enforcement of Open Meeting Law; Complaints; Hearings; Civil Actions]

(a) Subject to appropriation, the attorney general shall interpret and enforce the open meeting law.

(b) At least 30 days prior to the filing of a complaint with the attorney general, the complainant shall file a written complaint with the public body, setting forth the circumstances which constitute the alleged violation and giving the body an opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation. The public body shall, within 14 business days of receipt of a complaint, send a copy of the complaint to the attorney general and notify the attorney general of any remedial action taken. Any remedial action taken by the public body in response to a complaint under this subsection shall not be admissible as evidence against the public body that a violation occurred in any later administrative or judicial proceeding relating to such alleged violation. The attorney general may authorize an extension of time to the public body for the purpose of taking remedial action upon the written request of the public body and a showing of good cause to grant the extension.

(c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law. The attorney general may, and before imposing any civil penalty on a public body shall, hold a hearing on any such complaint. Following a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both, are responsible and whether the violation was intentional or unintentional. Upon the finding of a violation, the attorney general may issue an order to:

(1) compel immediate and future compliance with the open meeting law; (2) compel attendance at a training session authorized by the attorney general; (3) nullify in whole or in part any action taken at the meeting; (4) impose a civil penalty upon the public body of not more than \$1,000 for each intentional violation; (5) reinstate an employee without loss of compensation, seniority, tenure or other benefits; (6) compel that minutes, records or other materials be made public; or (7) prescribe other appropriate action.

(d) A public body or any member of a body aggrieved by any order issued pursuant to this section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in superior court seeking relief in the nature of certiorari; provided, however, that notwithstanding section 4 of chapter 249, any such action shall be commenced in superior court within 21 days of receipt of the order. Any order issued under this section shall be stayed pending judicial review; provided, however, that if the order nullifies an action of the public body, the body shall not implement such action pending judicial review.

(e) If any public body or member thereof shall fail to comply with the requirements set forth in any order issued by the attorney general, or shall fail to pay any civil penalty imposed within 21 days of the date of

issuance of such order or within 30 days following the decision of the superior court if judicial review of such order has been timely sought, the attorney general may file an action to compel compliance. Such action shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. If such body or member has not timely sought judicial review of the order, such order shall not be open to review in an action to compel compliance.

(f) As an alternative to the procedure in subsection (b), the attorney general or 3 or more registered voters may initiate a civil action to enforce the open meeting law.

Any action under this subsection shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets.

In any action filed pursuant to this subsection, in addition to all other remedies available to the superior court, in law or in equity, the court shall have all of the remedies set forth in subsection (c).

In any action filed under this subsection, the order of notice on the complaint shall be returnable not later than 10 days after the filing and the complaint shall be heard and determined on the return day or on such day as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of the open meeting law. In the hearing of any action under this subsection, the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law; provided, however, that no civil penalty may be imposed on an individual absent proof that the action complained of violated the open meeting law.

(g) It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel.

(h) Payment of civil penalties under this section paid to or received by the attorney general shall be paid into the general fund of the commonwealth.

Section 24. [Investigation by Attorney General of Violations of Open Meeting Law]

(a) Whenever the attorney general has reasonable cause to believe that a person, including any public body and any other state, regional, county, municipal or other governmental official or entity, has violated the open meeting law, the attorney general may conduct an investigation to ascertain whether in fact such person has violated the open meeting law. Upon notification of an investigation, any person, public body or any other state, regional, county, municipal or other governmental official or entity who is the subject of an investigation, shall make all information necessary to conduct such investigation available to the attorney general. In the event that the person, public body or any other state, regional, county, municipal or other governmental official or entity being investigated does not voluntarily provide relevant information to the attorney general within 30 days of receiving notice of the investigation, the attorney general may: (1) take testimony under oath concerning such alleged violation of the open meeting law; (2) examine or cause to be

examined any documentary material of whatever nature relevant to such alleged violation of the open meeting law; and (3) require attendance during such examination of documentary material of any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material. Such testimony and examination shall take place in the county where such person resides or has a place of business or, if the parties consent or such person is a nonresident or has no place of business within the commonwealth, in Suffolk county.

(b) Notice of the time, place and cause of such taking of testimony, examination or attendance shall be given by the attorney general at least 10 days prior to the date of such taking of testimony or examination.

(c) Service of any such notice may be made by: (1) delivering a duly-executed copy to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; (2) delivering a duly-executed copy to the principal place of business in the commonwealth of the person to be served; or (3) mailing by registered or certified mail a duly-executed copy addressed to the person to be served at the principal place of business in the commonwealth or, if said person has no place of business in the commonwealth, to his principal office or place of business.

(d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, the alleged violation of which is under investigation and the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying.

(e) No such notice shall contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of the commonwealth or require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of the commonwealth.

(f) Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the commonwealth for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general, unless with the consent of the person producing the same; provided, however, that such material or information may be disclosed by the attorney general in court pleadings or other papers filed in court.

(g) At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand or grant a protective order in accordance with the standards set forth in Rule 26(c) of the Massachusetts Rules of Civil Procedure. The motion may be filed in the superior court of the county in which the person

served resides or has his usual place of business or in Suffolk County. This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.

Section 25. [REGULATIONS, LETTER RULINGS, ADVISORY OPINIONS]

(a) The attorney general shall have the authority to promulgate rules and regulations to carry out enforcement of the open meeting law.

(b) The attorney general shall have the authority to interpret the open meeting law and to issue written letter rulings or advisory opinions according to rules established under this section.

CERTIFICATE OF RECEIPT OF OPEN MEETING LAW MATERIALS

I, _____, who qualified for the office of
(Name)
_____, on _____, certify pursuant
(Office) (Date)
to G.L. c. 30A, § 20(h), that I have received copies of the following Open Meeting Law
materials:

- 1) the Open Meeting Law, G.L. c. 30A, §§ 18-25;
- 2) regulations promulgated by the Attorney General under G.L. c. 30A, § 25; and
- 3) educational materials promulgated by the Attorney General under G.L. c. 30A, § 19(b),
explaining the Open Meeting Law and its application.

I have read and understand the requirements of the Open Meeting Law and the consequences
of violating it. I further understand that the materials I have received may be revised or
updated from time to time, and that I have a continuing obligation to implement any changes
in the Open Meeting Law during my term of office.

(Name)

(Name of Public Body)

(Date)

*Pursuant to G.L. c. 30A, § 20(h), an executed copy of this certificate shall be retained, according
to the relevant records retention schedule, by the appointing authority, city or town clerk, or the
executive director or other appropriate administrator of a state or regional body, or their designee.*

PERSONNEL POLICIES & PROCEDURES
For The
Town of Hubbardston

Attachment B

Town of Hubbardston
Social Media Policy

Town of Hubbardston Social Media Policy, Procedures, and Guidelines

Social Media Mission Statement

The Town of Hubbardston supports the use of online social media to enhance communication with the community. The Town of Hubbardston embraces social media as a forum to educate, increase access to Town services, and encouraging community awareness. Social media provides a real time method for information transmission. The Town of Hubbardston makes every effort to adhere to social media best practices in order to most effectively meet these goals. This procedure will also establish guidelines and standards for the acceptable use of the Town's social media site as well as guidelines and standards for Town staff participating in external online social media sites when it relates to discussing, sharing or commenting on Town business.

Social Media Goals

The Town of Hubbardston strives to provide quality services, programs and events to our citizens and, through the use of social media, to enhance our outreach efforts. Therefore, the Town of Hubbardston intends to utilize various forms of social media to enhance its ability to communicate information, updates, news and events to residents, businesses, visitors and the general public.

Social Media Guidelines

This policy exists to provide guidelines and best practices, rules and regulation for the use of the Town of Hubbardston's social media sites (including but not limited to Facebook and Twitter). The Town of Hubbardston's Social Media Policy applies to the Town of Hubbardston's Official Social Media Sites. Police Department site is under the direction of the department head. Due to the rapidly changing world of social media, these guidelines are subject to change. Guidelines are intended to provide engagement between the Town of Hubbardston and its citizens in order to improve communication and a basis for a consistent and reliable source of correspondence to the community. The intended purpose for establishing an official Town social media presence is to broadcast, announce and share office Town information that is useful to the public and the citizens of the Town of Hubbardston.

The Town of Hubbardston social media sites are subject to the approval of the Town Administrator or her designees. All town social media shall be administered by the Town

Administrator or her designees. This person(s) will be the administrator for the social media sites and will work directly with department heads. The social media sites are limited to only those departments/committees that have information deemed necessary to share with the public. Departments and the Town Administrator or her designee(s) shall monitor social media sites for comments/requests and for comments that violate this policy.

The Town's social media sites should make clear that they are maintained by the Town of Hubbardston and that they follow the Town's Social Media Policy. All of the Town of Hubbardston's social media sites should link back to the official Town of Hubbardston website.

Access to social media is restricted to Town employees performing official Town business.

The Town reserves the right to restrict or remove any content that is deemed in violation of this Social Media Policy. Comments and postings that are not relative to official Town business may be removed at the discretion of the Town of Hubbardston. Employees representing the Town of Hubbardston via the Town's social media sites must conduct themselves at all times as a representative of the Town in accordance with all Town policies.

This social media account is not the appropriate channel to report issues or concerns or to file a complaint. The Town expects all conversations to follow the rules of polite discourse and asks that participants treat each other, as well as our employees, with respect.

Comments will be monitored and may be subject to removal at the discretion of the Town of Hubbardston. Certain comments will not be permitted based on inappropriate comments containing but not limited to, any of the following:

1. Comments not related to the original topic
2. Profane, obscene, violent or pornographic content and/or language
3. Content that promotes discrimination on the basis of race, creed, color, religion, age, gender, sexual orientation, or national origin.
4. Defamatory or personal attacks
5. Threats
6. Comments relative to political campaigns
7. Solicitation
8. Violations of any federal, state or local law
9. Illegal activity

The Town of Hubbardston reserves the right to deny access to the Town of Hubbardston social media sites for any individual who violates the Town's Social Media Policy. Any person(s) comment(s) that violate the Town's Social Media Policy will not only be removed but the person posting the comment will be blocked/banned from the social media site at the Town's discretion.

Any comments deemed to be a threat to any town officials, employees, citizens, local business, etc. are taken in a serious manner and may be subject for review by the authorities.

Release of Information

Official Town information approved for release should be publicized via official Town of Hubbardston accounts (including the official Town of Hubbardston website, cable television, CodeRed, and other outreach mechanisms employed by the Town) and, when appropriate, through the Town's official social media sites, not via an employee's personal account. Employees may share a piece of content once it has originated from the official social media channel.

Public Records Retention

For the most part, comments and messages posted to the Town's official social media sites are considered transitory records and will not be kept as permanent record by the Town of Hubbardston. Information specifically collected as part of an official town public engagement exercise will be kept in accordance with town policy.

Guidelines for Posting on the Town of Hubbardston's Social Media Site

Comments posted to the Town's pages will be monitored. All those who post on the Town's social pages must adhere to the following guidelines. Posts will be removed if they violate the guidelines listed below and the person posting the comment will be blocked or banned from the social media site at the Town's discretion.

By posting on the Town of Hubbardston's Social Media pages, you accept and consent to the following:

- Comments and wall posts must be clean and inoffensive
- Comments and submissions must be topically related to the particular posting being comment upon
- No content that promotes discrimination on the basis of race, creed, color, religion, age, gender, sexual orientation, or national origin
- No graphic, obscene, explicit, violent or pornographic content and/or language
- No solicitations or advertisements, promotions, or endorsements of commercial services, products, organizations or companies
- No defamatory or personal attacks or threats
- No details about an ongoing investigation or legal or administrative proceeding that could prejudice the processes or could interfere with an individual's rights will be deleted from this page
- No comments that support or oppose political candidates or ballot propositions
- You participate at your own risk, taking personal responsibility for your comments, your username and any information provided.

- **Be honest and accurate, objective factual and non-debatable**

The appearance of external links or the use of third party applications on the Town's social media pages does not constitute endorsement on behalf of the Town of Hubbardston. Comments and submissions posted to this Facebook page are subject to all applicable local, state and federal laws.

PERSONNEL POLICIES & PROCEDURES

For The Town of Hubbardston

Attachment C

GENERAL LAWS OF MASSACHUSETTS

CONFLICT OF INTEREST LAW

CHAPTER 268A. CONDUCT OF PUBLIC OFFICIALS AND EMPLOYEES.

Chapter 268A: Section 17. Municipal employees; gift or receipt of compensation from other than municipality; acting as agent or attorney.

Section 17. (a) No municipal employee shall, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receive or request compensation from anyone other than the city or town or municipal agency in relation to any particular matter in which the same city or town is a party or has a direct and substantial interest.

(b) No person shall knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly give, promise or offer such compensation.

(c) No municipal employee shall, otherwise than in the proper discharge of his official duties, act as agent or attorney for anyone other than the city or town or

municipal agency in prosecuting any claim against the same city or town, or as agent or attorney for anyone in connection with any particular matter in which the same city or town is a party or has a direct and substantial interest.

Whoever violates any provision of this section shall be punished by a fine of not more than three thousand dollars or by imprisonment for not more than two years, or both.

A special municipal employee shall be subject to paragraphs (a) and (c) only in relation to a particular matter (a) in which he has at any time participated as a municipal employee, or (b) which is or within one year has been a subject of his official responsibility, or (c) which is pending in the municipal agency in which he is serving. Clause (c) of the preceding sentence shall not apply in the case of a special municipal employee who serves on no more than sixty days during any period of three hundred and sixty-five consecutive days.

This section shall not prevent a municipal employee from taking uncompensated action, not inconsistent with the faithful performance of his duties, to aid or assist any person who is the subject of disciplinary or other personnel administration proceedings with respect to those proceedings.

This section shall not prevent a municipal employee, including a special employee, from acting, with or without compensation, as agent or attorney for or otherwise aiding or assisting members of his immediate family or any person for whom he is serving as guardian, executor, administrator, trustee or other personal fiduciary except in those matters in which he has participated or which are the subject of his official responsibility; provided, that the official responsible for appointment to his position approves.

This section shall not prevent a present or former special municipal employee from aiding or assisting another person for compensation in the performance of work under a contract with or for the benefit of the city or town; provided, that the head of the special municipal employee's department or agency has certified in writing that the interest of the city or town requires such aid or assistance and the certification has been filed with the clerk of the city or town. The certification shall be open to public inspection.

This section shall not prevent a municipal employee from giving testimony under oath or making statements required to be made under penalty for perjury or contempt.

This section shall not prevent a municipal employee from applying on behalf of anyone for a building, electrical, wiring, plumbing, gas fitting or septic system permit,

nor from receiving compensation in relation to any such permit, unless such employee is employed by or provides services to the permit-granting agency or an agency that regulates the activities of the permit-granting agency.

Chapter 268A: Section 18. Former municipal employee; acting as attorney or receiving compensation; from other than municipality; partners.

Section 18. (a) A former municipal employee who knowingly acts as agent or attorney for or receives compensation, directly or indirectly from anyone other than the same city or town in connection with any particular matter in which the city or town is a party or has a direct and substantial interest and in which he participated as a municipal employee while so employed, or (b) a former municipal employee who, within one year after his last employment has ceased, appears personally before any agency of the city or town as agent or attorney for anyone other than the city or town in connection with any particular matter in which the same city or town is a party or has a direct and substantial interest and which was under his official responsibility as a municipal employee at any time within a period of two years prior to the termination of his employment, or (c) a partner of a former municipal employee who knowingly engages, during a period of one year following the termination of the latter's employment by the city or town, in any activity in which the former municipal employee is himself prohibited from engaging by clause (a), or (d) a partner of a municipal employee who knowingly acts as agent or attorney for anyone other than the city or town in connection with any particular matter in which the same city or town is a party or has a direct and substantial interest and in which the municipal employee participates or has participated as a municipal employee or which is the subject of his official responsibility, shall be punished by a fine of not more than three thousand dollars or by imprisonment for not more than two years, or both.

If a partner of a former municipal employee or of a special municipal employee is also a member of another partnership in which the former or special employee has no interest, the activities of the latter partnership in which the former or special employee takes no part shall not thereby be subject to clause (c) or (d).

Notwithstanding the provisions of clause (b), a former town counsel who acted in such capacity on a salary or retainer of less than two thousand dollars per year shall be prohibited from appearing personally before any agency of the city or town as agent or attorney for anyone other than the city or town only in connection with any particular matter in which the same city or town is a party or has a direct and substantial interest and in which he participated while so employed.

This section shall not prevent a present or former special municipal employee from aiding or assisting another person for compensation in the performance of work

under a contract with or for the benefit of the city or town; provided, that the head of the special municipal employee's department or agency has certified in writing that the interest of the city or town requires such aid or assistance and the certification has been filed with the clerk of the city or town. The certification shall be open to public inspection.

Chapter 268A: Section 19. Municipal employees, relatives or associates; financial interest in particular matter.

Section 19. (a) Except as permitted by paragraph (b), a municipal employee who participates as such an employee in a particular matter in which to his knowledge he, his immediate family or partner, a business organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest, shall be punished by a fine of not more than three thousand dollars or by imprisonment for not more than two years, or both.

(b) It shall not be a violation of this section (1) if the municipal employee first advises the official responsible for appointment to his position of the nature and circumstances of the particular matter and makes full disclosure of such financial interest, and receives in advance a written determination made by that official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee, or (2) if, in the case of an elected municipal official making demand bank deposits of municipal funds, said official first files, with the clerk of the city or town, a statement making full disclosure of such financial interest, or (3) if the particular matter involves a determination of general policy and the interest of the municipal employee or members of his immediate family is shared with a substantial segment of the population of the municipality.

Chapter 268A: Section 20. Municipal employees; financial interest in contracts; holding one or more elected positions.

Section 20. (a) A municipal employee who has a financial interest, directly or indirectly, in a contract made by a municipal agency of the same city or town, in which the city or town is an interested party of which financial interest he has knowledge or has reason to know, shall be punished by a fine of not more than three thousand dollars or by imprisonment for not more than two years, or both.

This section shall not apply if such financial interest consists of the ownership of less than one per cent of the stock of a corporation.

This section shall not apply (a) to a municipal employee who in good faith and within thirty days after he learns of an actual or prospective violation of this section makes full disclosure of his financial interest to the contracting agency and terminates or disposes of the interest, or (b) to a municipal employee who is not employed by the contracting agency or an agency which regulates the activities of the contracting agency and who does not participate in or have official responsibility for any of the activities of the contracting agency, if the contract is made after public notice or where applicable, through competitive bidding, and if the municipal employee files with the clerk of the city or town a statement making full disclosure of his interest and the interest of his immediate family, and if in the case of a contract for personal services (1) the services will be provided outside the normal working hours of the municipal employee, (2) the services are not required as part of the municipal employee's regular duties, the employee is compensated for not more than five hundred hours during a calendar year, (3) the head of the contracting agency makes and files with the clerk of the city or town a written certification that no employee of that agency is available to perform those services as part of their regular duties, and (4) the city council, board of selectmen or board of aldermen approve the exemption of his interest from this section, or (c) to a special municipal employee who does not participate in or have official responsibility for any of the activities of the contracting agency and who files with the clerk of the city or town a statement making full disclosure of his interest and the interests of his immediate family in the contract, or (d) to a special municipal employee who files with the clerk of the city, town or district a statement making full disclosure of his interest and the interests of his immediate family in the contract, if the city council or board of aldermen, if there is no city council, board of selectmen or the district prudential committee, approve the exemption of his interest from this section, or (e) to a municipal employee who receives benefits from programs funded by the United States or any other source in connection with the rental, improvement, or rehabilitation of his residence to the extent permitted by the funding agency, or (f) to a municipal employee if the contract is for personal services in a part time, call or volunteer capacity with the police, fire, rescue or ambulance department of a fire district, town or any city with a population of less than thirty-five thousand inhabitants; provided, however, that the head of the contracting agency makes and files with the clerk of the city, district or town a written certification that no employee of said agency is available to perform such services as part of his regular duties, and the city council, board of selectmen, board of aldermen or district prudential committee approve the exemption of his interest from this section or (g) to a municipal employee who has applied in the usual course and is otherwise eligible for a housing subsidy program administered by a local housing authority, unless the employee is employed by the local housing authority in a capacity in which he has responsibility for the administration of such subsidy programs or (h) to a municipal employee who is the owner of residential rental property and rents such property to a tenant receiving a rental subsidy administered by a local housing authority, unless such employee is employed by such

local housing authority in a capacity in which he has responsibility for the administration of such subsidy programs.

This section shall not prohibit an employee or an official of a town from holding the position of selectman in such town nor in any way prohibit such employee from performing the duties of or receiving the compensation provided for such office; provided, however, that such selectman shall not, except as hereinafter provided, receive compensation for more than one office or position held in a town, but shall have the right to choose which compensation he shall receive; provided, further, that no such selectman may vote or act on any matter which is within the purview of the agency by which he is employed or over which he has official responsibility; and, provided further, that no such selectman shall be eligible for appointment to any such additional position while he is still a member of the board of selectmen or for six months thereafter. Any violation of the provisions of this paragraph which has substantially influenced the action taken by any municipal agency in any matter shall be grounds for avoiding, rescinding or canceling the action on such terms as the interest of the municipality and innocent third parties may require.

This section shall not prohibit any elected official in a town, whether compensated or uncompensated for such elected position, from holding one or more additional elected positions, in such town, whether such additional elected positions are compensated or uncompensated.

This section shall not prohibit an employee of a municipality with a city or town council form of government from holding the elected office of councilor in such municipality, nor in any way prohibit such an employee from performing the duties of or receiving the compensation provided for such office; provided, however, that no such councilor may vote or act on any matter which is within the purview of the agency by which he is employed or over which he has official responsibility; and provided, further, that no councilor shall be eligible for appointment to such additional position while a member of said council or for six months thereafter. Any violation of the provisions of this paragraph which has substantially influenced the action taken by a municipal agency in any matter shall be grounds for avoiding, rescinding or canceling such action on such terms as the interest of the municipality and innocent third parties require. No such elected councilor shall receive compensation for more than one office or position held in a municipality, but shall have the right to choose which compensation he shall receive.

This section shall not prohibit an employee of a housing authority in a municipality from holding any elective office, other than the office of mayor, in such municipality nor in any way prohibit such employee from performing the duties of or receiving the compensation provided for such office; provided, however, that such elected officer shall not, except as otherwise expressly provided, receive compensation for

more than one office or position held in a municipality, but shall have the right to choose which compensation he shall receive; provided further that no such elected official may vote or act on any matter which is within the purview of the housing authority by which he is employed; and provided further that no such elected official shall be eligible for appointment to any such additional position while he is still serving in such elective office or for six months thereafter. Any violation of the provisions of this paragraph which has substantially influenced the action taken by the housing authority in any matter shall be grounds for avoiding, rescinding, or canceling the action on such terms as the interest of the municipality and innocent third parties may require.

This section shall not prohibit an employee in a town having a population of less than three thousand five hundred persons from holding more than one appointed position with said town, provided that the board of selectmen approves the exemption of his interest from this section.

Chapter 268A: Section 21. Municipal agency; unfair advantage in relation to particular matter; additional remedies; civil action for damages.

Section 21. (a) In addition to any other remedies provided by law, any violation of sections two, three, eight, or sections fifteen to twenty, inclusive, which has substantially influenced the action taken by any municipal agency in any particular matter shall be grounds for avoiding, rescinding or canceling the action on such terms as the interest of the municipality and innocent third persons require.

(b) The state ethics commission, the district attorney for that district, or the city or town or state may bring a civil action against any person who has acted to his economic advantage in violation of said sections two, three, eight and fifteen to twenty, inclusive, and may recover damages for the city or town in the amount of such economic advantage or five hundred dollars, whichever is greater. If there has been no final criminal judgment of conviction or acquittal of the same violation, the state ethics commission, the district attorney or the city or town or state may in the discretion of the court recover additional damages for the city or town in an amount not exceeding twice the amount of the economic recovery or five hundred dollars, whichever is greater, and a judgment for such damages shall bar any criminal prosecution for the same violation.

Chapter 268A: Section 21A. Members of municipal commission or board; restrictions on appointments to certain positions.

Section 21A. Except as hereinafter provided, no member of a municipal commission or board shall be eligible for appointment or election by the members of such commission or board to any office or position under the supervision of such

commission or board. No former member of such commission or board shall be so eligible until the expiration of thirty days from the termination of his service as a member of such commission or board.

The provisions of this section shall not apply to a member of a town commission or board, if such appointment or election has first been approved at an annual town meeting of the town.

Chapter 268A: Section 21B. Prospective municipal appointees; demanding undated resignations prohibited.

Section 21B. No mayor, city manager, or town manager shall require a prospective appointee to a board, commission or position under his jurisdiction to submit as a condition precedent to said appointment an undated resignation from said board, commission or position. Whoever violates the provisions of this section shall be punished by a fine of not more than five hundred dollars.

Chapter 268A: Section 22. Opinions of corporation counsel, city solicitor or town counsel.

Section 22. Any municipal employee shall be entitled to the opinion of the corporation counsel, city solicitor or town counsel upon any question arising under this chapter relating to the duties, responsibilities and interests of such employee. All requests for such opinions by a subordinate municipal employee shall be made in confidence directly to the chief officer of the municipal agency in which he is employed, who shall in turn request in confidence such opinion of the corporation counsel, city solicitor or town counsel on behalf of such subordinate municipal employee, and all constitutional officers and chief officers or heads of municipal agencies may make direct confidential requests for such opinions on their own account. The town counsel or city solicitor shall file such opinion in writing with the city or town clerk and such opinion shall be a matter of public record; however, no opinion will be rendered by the town counsel or city solicitor except upon the submission of detailed existing facts which raise a question of actual or prospective violation of any provision of this chapter.

Chapter 268A: Section 23. Supplemental provisions; standards of conduct.

Section 23. (a) In addition to the other provisions of this chapter, and in supplement thereto, standards of conduct, as hereinafter set forth, are hereby established for all state, county, and municipal employees.

(b) No current officer or employee of a state, county or municipal agency shall knowingly, or with reason to know:

(1) accept other employment involving compensation of substantial value, the responsibilities of which are inherently incompatible with the responsibilities of his public office;

(2) use or attempt to use his official position to secure for himself or others unwarranted privileges or exemptions which are of substantial value and which are not properly available to similarly situated individuals;

(3) act in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person. It shall be unreasonable to so conclude if such officer or employee has disclosed in writing to his appointing authority or, if no appointing authority exists, discloses in a manner which is public in nature, the facts which would otherwise lead to such a conclusion.

(c) No current or former officer or employee of a state, county or municipal agency shall knowingly, or with reason to know:

(1) accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority;

(2) improperly disclose materials or data within the exemptions to the definition of public records as defined by section seven of chapter four, and were acquired by him in the course of his official duties nor use such information to further his personal interest.

(d) Any activity specifically exempted from any of the prohibitions in any other section of this chapter shall also be exempt from the provisions of this section. The state ethics commission, established by chapter two hundred and sixty-eight B, shall not enforce the provisions of this section with respect to any such exempted activity.

(e) Where a current employee is found to have violated the provisions of this section, appropriate administrative action as is warranted may also be taken by the appropriate constitutional officer, by the head of a state, county or municipal agency. Nothing in this section shall preclude any such constitutional officer or head of such agency from establishing and enforcing additional standards of conduct.

(f) Upon qualification for office following an appointment or election to a municipal agency, such appointed or elected person shall be furnished by the city or town clerk with a copy of this section. Each such person shall sign a written acknowledgement that he has been provided with such copy.

Chapter 268A: Section 23A. Trustees of public institutions of higher learning; prohibited positions.

Section 23A. No trustee of any public institution of higher education operated by the commonwealth shall be eligible to be appointed to or hold any other office or position with said institution for a period of three years next after the termination of his services as such trustee, or in the case of an elected student trustee at said institution, for a period of one year next after the termination of his services as such trustee; provided, however, that any such elected student trustee may accept and hold part-time employment at said institution while a student thereat, and provided further, that a trustee may be appointed to or hold an unpaid office or position with said institution after his services as such trustee.

Chapter 268A: Section 24. Disclosures and certifications; form; public inspection.

Section 24. All disclosures and certifications provided for in this chapter and made in accordance with its provisions shall be made in writing and, unless otherwise specifically provided in this chapter, shall be kept open to inspection by the public by the official with whom such disclosure has been filed.

Chapter 268B: Section 1. Section 1. Definitions.

As used in this chapter, unless the context requires otherwise,

(a) ""amount", a category of value, rather than an exact dollar figure, as follows: greater than one thousand dollars but not more than five thousand dollars; greater than five thousand dollars but not more than ten thousand dollars; greater than ten thousand dollars but not more than twenty thousand dollars; greater than twenty thousand dollars but not more than forty thousand dollars; greater than forty thousand dollars but not more than sixty thousand dollars; greater than sixty thousand dollars but not more than one hundred thousand dollars; greater than one hundred thousand dollars;

(b) ""business" means any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company,

receivership, business or real estate trust, or any other legal entity organized for profit or charitable purposes;

(c) ""business with which he is associated" means any business in which the reporting person or a member of his immediate family is a general partner, proprietor, officer or other employee, including one who is self-employed, or serves as a director, trustee or in any similar managerial capacity; and any business more than one percent of any class of the outstanding equity of which is beneficially owned in the aggregate by the reporting person and members of his immediate family;

(d) ""candidate for public office" means any individual who seeks nomination or election to public office, as defined by this chapter.

For the purposes of this chapter, an individual shall be deemed to be seeking nomination or election to public office if he has (1) received a political contribution or made an expenditure, or has given his consent for any other person or committee to receive a political contribution or make an expenditure, for the purpose of influencing his nomination or election to such office, whether or not the specific public office for which he will seek nomination or election is known at the time the political contribution is received or the expenditure is made, or (2) taken the action necessary under the laws of the commonwealth to qualify himself for nomination or election to such office;

(e) ""commission" means the state ethics commission established by section 2;

(f) ""equity" means any stock or similar ownership interest in a business;

(g) ""gift" means a payment, entertainment, subscription, advance, services or anything of value, unless consideration of equal or greater value is received; ""gift" shall not include a political contribution reported as required by law, a commercially reasonable loan made in the ordinary course of business, anything of value received by inheritance, or a gift received from a member of the reporting person's immediate family or from a relative within the third degree of consanguinity of the reporting person or of the reporting person's spouse or from the spouse of any such relative;

(h) ""governmental body" means any state or county agency, authority, board, bureau, commission, council, department, division, or other entity, including the general court and the courts of the commonwealth;

(i) ""immediate family" means a spouse and any dependent children residing in the reporting person's household;

(j) "income" means income from whatever source derived, whether in the form of a fee, salary, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof; provided, however, that interest from savings accounts or from government obligations other than those of the commonwealth or any political subdivision thereof or any public agency or authority created by the general court, alimony and support payments, proceeds from a life insurance policy, retirement or disability benefits, and social security payments shall not be considered income for the purposes of this chapter;

(k) "legislative agent" means any person who for compensation or reward does any act to promote, oppose or influence legislation, or to promote, oppose or influence the governor's approval or veto thereof or to influence the decision of any member of the executive branch where such decision concerns legislation or the adoption, defeat, or postponement of a standard, rate, rule or regulation pursuant thereto. The term shall include persons who, as any part of their regular and usual employment and not simply incidental thereto, attempt to promote, oppose or influence legislation or the governor's approval or veto thereof, whether or not any compensation in addition to the salary for such employment is received for such services;

(l) "Major policy making position" means: the executive or administrative head or heads of a governmental body; all members of the judiciary; any person whose salary equals or exceeds that of a state employee classified in step one of job group XXV of the general salary schedule contained in section forty-six of chapter thirty and who reports directly to said executive or administrative head; the head of each division, bureau, or other major administrative unit within such governmental body; and persons exercising similar authority;

(m) "person" means a business, individual, corporation, union, association, firm, partnership, committee, or other organization or group of persons.

(n) "political contribution" means a contribution of money or anything of value to an individual, candidate, political committee, or person acting on behalf of an individual, candidate or political committee, for the purpose of influencing the nomination or election of said individual or candidate, or for the purpose of promoting or opposing a charter change, referendum question, constitutional amendment, or other question submitted to the voters, and shall include any: (1) gift, subscription, loan, advance, deposit of money, or thing of value, except a loan of money to a candidate by a national or state bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business; (2) transfer of money or anything of value between political committees; (3) payment, by any person other than a candidate or political committee, or compensation for the personal services of another person which are rendered to such candidate or

committee; (4) purchase from an individual, candidate or political committee, or person acting on behalf of an individual, candidate or political committee, whether through the device of tickets, advertisements, or otherwise, for fund-raising activities, including testimonials, held on behalf of said individual, candidate, or political committee, to the extent that the purchase price exceeds the actual cost of the goods sold or services rendered; (5) discount or rebate not available to other candidates for the same office and to the general public; and (6) forgiveness of indebtedness or payment of indebtedness by another person; but shall not include the rendering of services by speakers, editors, writers, poll watchers, poll checkers or others, nor the payment by those rendering such services of such personal expenses as may be incidental thereto, nor the exercise of ordinary hospitality;

(%96) ""Public employee" means any person who holds a major policymaking position in a governmental body; provided, however, that any person who receives no compensation other than reimbursements for expenses, or any person serving on a governmental body that has no authority to expend public funds other than to approve reimbursements for expenses shall not be considered a public employee for the purposes of this chapter; provided, however, that the members of the board of bar examiners shall not be considered public employees for the purposes of this chapter;

(p) ""public office" means any position for which one is nominated at a state primary or chosen at a state election, excluding the positions of Senator and Representative in congress and the office of regional district school committee member elected district-wide;

(q) ""public official" means anyone who holds a public office, as defined by clause (p) of this section;

(r) ""reporting person" means any person required to file a statement of financial interest pursuant to the provisions of section five.

PERSONNEL POLICIES & PROCEDURES

For The Town of Hubbardston

Attachment D

GENERAL LAWS OF MASSACHUSETTS

PUBLIC RECORDS LAW

Chapter 4, Section 7, Subsection 26: "Public records" shall mean all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, unless such materials or data fall within the following exemptions in that they are:

- (a) specifically or by necessary implication exempted from disclosure by statute;
- (b) related solely to internal personnel rules and practices of the government unit, provided however, that such records shall be withheld only to the extent that proper performance of necessary governmental functions requires such withholding;
- (c) personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy;
- (d) inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this sub clause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based;

(e) notebooks and other materials prepared by an employee of the commonwealth which are personal to him and not maintained as part of the files of the governmental unit;

(f) investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest;

(g) trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy and upon a promise of confidentiality; but this sub clause shall not apply to information submitted as required by law or as a condition of receiving a governmental contract or other benefit;

(h) proposals and bids to enter into any contract or agreement until the time for the opening of bids in the case of proposals or bids to be opened publicly, and until the time for the receipt of bids or proposals has expired in all other cases; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or to award a contract to, a particular person;

(i) appraisals of real property acquired or to be acquired until (1) a final agreement is entered into; or (2) any litigation relative to such appraisal has been terminated; or (3) the time within which to commence such litigation has expired;

(j) the names and addresses of any persons contained in, or referred to in, any applications for any licenses to carry or possess firearms issued pursuant to chapter one hundred and forty or any firearms identification cards issued pursuant to said chapter one hundred and forty and the names and addresses on sales or transfers of any firearms, rifles, shotguns, or machine guns or ammunition therefor, as defined in said chapter one hundred and forty and the names and addresses on said licenses or cards;

(k) *Deleted by St.1988, c. 180, § 1.*

(l) questions and answers, scoring keys and sheets and other materials used to develop, administer or score a test, examination or assessment instrument; provided, however, that such materials are intended to be used for another test, examination or assessment instrument;

(m) contracts for hospital or related health care services between (i) any hospital, clinic or other health care facility operated by a unit of state, county or municipal

government and (ii) a health maintenance organization arrangement approved under chapter one hundred and seventy-six I, a nonprofit hospital service corporation or medical service corporation organized pursuant to chapter one hundred and seventy-six A and chapter one hundred and seventy-six B, respectively, a health insurance corporation licensed under chapter one hundred and seventy-five or any legal entity that is self-insured and provides health care benefits to its employees.

[Sub clause (n) inserted by 2002, 313, Sec. 1 effective September 5, 2002.]

(n) records, including, but not limited to, blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (b) of section 10 of chapter 66, is likely to jeopardize public safety.

Any person denied access to public records may pursue the remedy provided for in section ten of chapter sixty-six.

Chapter 66: Section 10. Public inspection and copies of records; presumption; exceptions.

Section 10. (a) Every person having custody of any public record, as defined in clause Twenty-sixth of section seven of chapter four, shall, at reasonable times and without unreasonable delay, permit it, or any segregable portion of a record which is an independent public record, to be inspected and examined by any person, under his supervision, and shall furnish one copy thereof upon payment of a reasonable fee. Every person for whom a search of public records is made shall, at the direction of the person having custody of such records, pay the actual expense of such search. The following fees shall apply to any public record in the custody of the state police, the Massachusetts bay transportation authority police or any municipal police department or fire department: for preparing and mailing a motor vehicle accident report, five dollars for not more than six pages and fifty cents for each additional page; for preparing and mailing a fire insurance report, five dollars for not more than six pages plus fifty cents for each additional page; for preparing and mailing crime, incident or miscellaneous reports, one dollar per page; for furnishing any public record, in hand, to a person requesting such records, fifty cents per page. A page shall be defined as one side of an eight and one-half inch by eleven inch sheet of paper.

(b) A custodian of a public record shall, within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered in hand to the office of the custodian or mailed via first class mail. If the custodian refuses or fails to comply with such a request, the person making the request may petition the supervisor of records for a determination whether the record requested is public. Upon the determination by the supervisor of records that the record is public, he shall order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order, the supervisor of records may notify the attorney general or the appropriate district attorney thereof who may take whatever measures he deems necessary to insure compliance with the provisions of this section. The administrative remedy provided by this section shall in no way limit the availability of the administrative remedies provided by the commissioner of administration and finance with respect to any officer or employee of any agency, executive office, department or board; nor shall the administrative remedy provided by this section in any way limit the availability of judicial remedies otherwise available to any person requesting a public record. If a custodian of a public record refuses or fails to comply with the request of any person for inspection or copy of a public record or with an administrative order under this section, the supreme judicial or superior court shall have jurisdiction to order compliance.

(c) In any court proceeding pursuant to paragraph (b) there shall be a presumption that the record sought is public, and the burden shall be upon the custodian to prove with specificity the exemption which applies.

(d) The clerk of every city or town shall post, in a conspicuous place in the city or town hall in the vicinity of the clerk's office, a brief printed statement that any citizen may, at his discretion, obtain copies of certain public records from local officials for a fee as provided for in this chapter.

The executive director of the criminal history systems board, the criminal history systems board and its agents, servants, and attorneys including the keeper of the records of the firearms records bureau of said department, or any licensing authority, as defined by chapter one hundred and forty shall not disclose any records divulging or tending to divulge the names and addresses of persons who own or possess firearms, rifles, shotguns, machine guns and ammunition therefor, as defined in said chapter one hundred and forty and names and addresses of persons licensed to carry and/or possess the same to any person, firm, corporation, entity or agency except criminal justice agencies as defined in chapter six and except to the extent such information relates solely to the person making the request and is necessary to the official interests of the entity making the request.

The home address and home telephone number of law enforcement, judicial, prosecutorial, department of youth services, department of social services, department of correction and any other public safety and criminal justice system personnel shall not be public records in the custody of the employers of such personnel or the public employee retirement administration commission or any retirement board established under chapter 32 and shall not be disclosed, but such information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180 or to a criminal justice agency as defined in section 167 of chapter 6. The name and home address and telephone number of a family member of any such personnel shall not be public records in the custody of the employers of the foregoing persons or the public employee retirement administration commission or any retirement board established under chapter 32 and shall not be disclosed. The home address and telephone number or place of employment or education of victims of adjudicated crimes and of persons providing or training in family planning services and the name and home address and telephone number, or place of employment or education of a family member of any of the foregoing shall not be public records in the custody of a government agency which maintains records identifying such persons as falling within such categories and shall not be disclosed.

Chapter 66: Section 1. Supervision of public records; powers and duties.

Section 1. The supervisor of public records, in this chapter called the supervisor of records, shall take necessary measures to put the records of the commonwealth, counties, cities or towns in the custody and condition required by law and to secure their preservation. He shall see that the records of churches, parishes or religious societies are kept in the custody and condition contemplated by the various laws relating to churches, parishes or religious societies, and for these purposes he may expend from the amount appropriated for expenses such amount as he considers necessary. The supervisor of records shall adopt regulations pursuant to the provisions of chapter thirty A to implement the provisions of this chapter.

PERSONNEL POLICIES & PROCEDURES
For The
Town of Hubbardston

**Acknowledgement of Receipt of
Personnel Policies & Procedures
(As Amended)**

The undersigned hereby acknowledges that s/he has received the updated Personnel Policies and Procedures of the Town of Hubbardston.

Employee Signature

Date

Print Name