



Whistleblower Policy

Purpose

It is the mission of the Council to “empower our members through advocacy, networking, resources, and professional development; and by supporting diversity, innovation, and collaboration to strengthen their ability to serve their communities and promote environmentally sustainable practices.”

This mission cannot be met if leadership, workers, and stakeholders do not uphold the ethics, laws, regulations, and policies that apply to the Council.

To ensure those ethics, laws, regulations, and policies are upheld, the Council strives for transparency in budgeting, contracting, and operations, and encourages trustees, employees, and stakeholders to ask questions and report concerns.

In particular, the Council is committed to encouraging the good-faith reporting of concerns, so such concerns may be investigated and the board and membership may be assured of compliance.

To that purpose, the Council adopts and shall rigorously enforce this Whistleblower Policy, which includes protection from retaliation for any person who brings forward a concern, suspected legal violation, or other report in good faith.

Required Reporting and Protections

In addition to being encouraged to report suspected wrongdoing, trustees and employees are **required** to report known violations of the law, regulations, or policy by Council trustees, employees, volunteers, and vendors.

Failure to report a known violation may be regarded as misconduct.

For avoidance of doubt:

“Suspected wrongdoing” is a conclusion, based on observations, that an action or activity may be a violation of the law, regulations, or policy.

A “**known violation**” is confirmed direct observation of an action known by the observer to be a violation of the law, regulations, or policy.

Volunteers are encouraged to make reports, but not required to do so.

Assurance of No Retaliation

No director, officer, key person, employee or volunteer of a corporation who in good faith reports any action or suspected action taken by or within the corporation that is illegal, fraudulent or in violation of any adopted policy of the corporation shall suffer intimidation, harassment, discrimination or other retaliation or, in the case of employees, adverse employment consequence.

Good Faith Reporting

It is required that reports be made in good faith, which means that the concern is not baseless or fabricated.

If an investigation is conducted and finds that a report under this policy is baseless or fabricated, the report may be considered to be misconduct; such a concern will be addressed under the appropriate policy.

Understandings and Examples

It is understood that a report of suspected wrongdoing may result in a finding of no wrongdoing, but may still be made in good faith.

For example: if an employee observes Council purchases being removed for what appears to be another employee’s personal use, but the investigation that the items were transported to an affiliate per the terms of a grant, the report was still in good faith.

It is understood that a failure to report a known violation may be misconduct.

For example: If a trustee becomes aware that an employee’s license is suspended, and that employee drives for Council business, and a report of the illegal driving is made under this policy, the failure of the trustee to report the illegal driving may be considered misconduct. The misconduct would be addressed via the appropriate policy and bylaws.

It is understood that a baseless or fabricated report is not in good faith.

For example: If an employee does not like a decision by another employee, and reports that the decision was communicated with a physical threat, and the investigation reveals the decision was communicated in an appropriate manner with no basis for it to be interpreted as a physical threat, the report was not made in good faith, and the reporter may be evaluated for misconduct.

It is understood that employees are protected from retaliation for reporting violations of Labor Law in good faith.

For example: If an employee reports under this policy, or to an outside authority, that the Council has engaged in conduct that the employee, reasonably and in good faith, believes violates the law regarding overtime, no person on behalf of the Council shall discharge, threaten, penalize, or in any other manner discriminate or retaliate against that employee.

Procedures for reporting

Suspected or known violations of laws or corporate policies should be reported to the Executive Director, or if there is a concern the Executive Director could be biased, to an officer of the board of trustees (President, Vice President, Treasurer, Secretary).

For avoidance of doubt, such report should be in writing and shall say: "Whistleblower Report."

Reports may be made anonymously, with the understanding that such reporting may inhibit a thorough investigation.

The Executive Director and Board Officers are the designated authorities for administering this policy (the "WB Administrators"). This responsibility including receiving, investigating, and finalizing reports under this policy. In doing this work, there shall always be at least two WB Administrators administering the complaint.

For capacity, particular competencies, and avoidance of appearance of bias, the WB Administrators may designate an outside contractor (an accountant, HR specialist, or attorney) to perform all or part of their function if a particular matter warrants it.

To preserve the confidentiality of reported information:

- The WB Administrator receiving a report shall not disclose the reporter to any other person prior to the development of a plan to investigate the report, which may include bringing in a third party to conduct a review;
- Documentation generated shall not use the reporter's name or identifying characteristics, and instead shall say "Reporter;"
- The investigation shall be designed to be conducted with discretion; to the degree possible, outreach to the Reporter shall be away from Council property and resources.

It shall be the aim of the Council to complete investigations within 60 days of a report, but such timeline may be extended based on the complexity of the matter and the resources needed to investigate it.

Finalizing Reports

All reports shall be investigated and the results shall be submitted to the Board; such results shall maintain the confidentiality of the reporter to the greatest degree possible.

Upon receiving the results of a report, the board shall vote to receive it, and to direct any further action warranted by it.

The person who is the subject of a whistleblower complaint shall not be present at or participate in board or committee deliberations or vote on the matter relating to such complaint, but the board or committee may request that the person who is subject to the complaint present information as background or answer questions at a committee or board meeting prior to the commencement of deliberations or voting relating thereto.

Prohibited retaliation under Labor Law 215

No employee or their agent, or the officer or agent of the Council, shall discharge, threaten, penalize, or in any other manner discriminate or retaliate against any employee:

(i) because such employee has made a complaint to their employer, or to the commissioner or their authorized representative, or to the attorney general or any other person, that the employer has engaged in conduct that the employee, reasonably and in good faith, believes violates any provision of this chapter, or any order issued by the commissioner; OR

(ii) because such employer or person believes that such employee has made a complaint to their employer, or to the commissioner or their authorized representative, or to the attorney general, or to any other person that the employer has violated any provision of this chapter, or any order issued by the commissioner; OR

(iii) because such employee has caused to be instituted or is about to institute a proceeding under or related to this chapter; OR

(iv) because such employee has provided information to the commissioner or their authorized representative or the attorney general; OR

(v) because such employee has testified or is about to testify in an investigation or proceeding under this chapter; OR

(vi) because such employee has otherwise exercised rights protected under the Labor Law; OR

(vii) because the employer has received an adverse determination from the commissioner involving the employee; OR

(viii) because such employee has used any legally protected absence pursuant to federal, local, or state law.

An employee complaint or other communication need not make explicit reference to this Policy to trigger the protections of this section.

To “threaten, penalize, or in any other manner discriminate or retaliate against any employee” includes threatening to contact or contacting United States immigration authorities or otherwise reporting or threatening to report an employee’s suspected citizenship or immigration status or the suspected citizenship or immigration status of an employee’s family or household member, as defined in subdivision two of section four hundred fifty-nine-a of the social services law, to a federal, state or local agency; or assessing any demerit, occurrence, any other point, or deductions from an allotted bank of time, which subjects or could subject an employee to disciplinary action, which may include but not be limited to failure to receive a promotion or loss of pay.

Scope

This policy and its protections cover reports report of suspected improper conduct (“wrongdoing”) made by and/or pertaining to Council trustees, employees, and volunteers.

Because of the size of the Council’s workforce and budget, the requirements of Not-for-Profit Corporation Law Section 715-b (“Whistleblower Policy”) do not apply, but this Policy adopts the standards of that law as a best practice.

This Whistleblower Policy also addresses the protection from retaliation required by Labor Law Section 215.

Reports initially made under this policy that fall under another policy (for example, sexual harassment, or audit) shall be addressed per the applicable policy.

Awareness

A copy of this Policy be distributed to all directors, officers, key persons, employees and to volunteers who provide substantial services to the Council, and a copy shall be on the Council’s web site.

Revised and approved by the Board of Trustees, February 7, 2025