

WAYNE COUNTY WATER AND SEWER AUTHORITY POLICY

WRONGFUL CONDUCT, DISCLOSURE OF WRONGFUL CONDUCT (WHISTLE BLOWING) AND PROTECTION FROM REPRISAL

Date Adopted: November 23, 2010

Last Revised: May 28, 2019

Overview

This policy is intended to instruct Board members and employees in wrongful conduct (theft of money / property / resources, fraud, harmful / protected actions, etc.), their responsibility to disclose wrongful conduct, their responsibility to investigate alleged wrongful conduct, and the protection of any employee who engages in good faith disclosure of alleged wrongful conduct as provided by this policy. More specifically it:

- encourages employees to disclose serious breaches of conduct covered by Authority policies, administrative regulations, or violations of law (theft, fraud, etc.),
- informs employees how allegations of wrongful conduct can be disclosed,
- protects employees from reprisal by adverse employment action as a result of having disclosed wrongful conduct, and
- provides individuals who believe they have been subject to reprisal a fair process to seek relief from retaliatory acts.

Statement of Policy

The Authority has developed policies and procedures for standards of conduct and behavior. Additionally, Board members and employees are expected to abide by applicable state and federal laws. A Board member and employee cannot be compelled by a supervisor or official to violate an Authority policy, regulation, an applicable law, or public policy. In the interest of the Authority, a Board member, or employee who has particular knowledge of specific acts which he or she reasonably believes constitute wrongful conduct shall disclose the conduct to the appropriate Authority official or appointee defined under this policy in a prompt and timely manner. If an adverse employment action is taken against an Authority employee in knowing retaliation for his or her good faith disclosure of information to a designated Authority official or appointee concerning alleged wrongful conduct, as defined under this policy, and if the employee's work performance or behavior did not warrant the adverse action, then the Authority shall take remedial action for the employee and corrective action against the supervisor.

The Executive Director may devise additional administrative regulations and procedures for handling disclosures and responding to complaints of reprisal or retaliation, as long as such procedures conform with the guidelines detailed below. This policy, and other relevant regulations and procedures shall be discussed with employees at the time of their hiring, published in employee handbooks, posted in employee lounges and workspaces, and a copy given to all employees with fiscal accounting and/or money handling responsibilities on an annual basis.

It is recommended that the Authority Board periodically evaluate the effectiveness of this policy and procedures. The designees and appointees responsible for implementation of this policy should be part of this process.

Wrongful Conduct

Wrongful conduct is defined in this policy to be:

- theft of Authority money, property, resources, or authority, or fraud, or the use of Authority money, property, resources, or authority for personal gain or other non Authority related purpose except as provided under Authority policy
- corruption, criminal or unethical activity, misconduct, waste, conflict of interest, intentional reporting of false or misleading information or abuse of authority
- a serious violation of Authority policy, regulation, and/or procedure
- a violation of applicable state and federal laws

Disclosure and Disclosure Investigation (Whistle Blowing)

- The Authority has policies, regulations, and procedures for maintaining standards of conduct, many of which are set forth in the Employee Handbook. Examples include policies on sexual and other unlawful harassment, policies on drug and alcohol use, policies prohibiting discrimination, and policies for the protection of Authority money, resources and services. When feasible, the procedures set out in the applicable policy should be followed to disclose violations.

In matters relating to wrongful conduct as defined in the section above, mismanagement of Authority resources, or an abuse of authority which is not covered by specific Authority policy, then disclosure of the violation should be made to the Executive Director, unless the Executive Director is the person violating the policy or engaging in wrongful conduct, in which case disclosure of the violation should be made to the Chairman of the Authority Board. It shall be the responsibility of the Executive Director and/or Chairman, as applicable, to receive such disclosures and to ensure that there is an investigation of the

alleged disclosure of wrongful conduct (hereinafter referred to as a “disclosure investigation”).

The Executive Director (unless the disclosure is against actions of the Executive Director) or Authority Board Chairman (the “Investigating Officer”) who receives an alleged disclosure of wrongful conduct shall:

- 1) keep confidential the identity of the person making the disclosure,
- 2) maintain a written record of the allegation,
- 3) and conduct an investigation or ensure that the appropriate unit (auditors, police, etc.) investigates the disclosure in a timely and reasonable manner, and
- 4) notify the Board and appropriate Board members at a time considered to be appropriate by the Investigating Officer.

In matters of disclosure, the Investigating Officer will make all reasonable attempts to maintain the identity of the employee making the disclosure in a confidential manner, as long as such maintaining this confidentiality does not interfere with conducting an investigation of the specific allegations or taking corrective action. In the event that the identity of the employee making the disclosure is known, upon the conclusion of the investigation the Investigating Officer will notify, in writing, the employee or employees who made the disclosure of the determination and retain a copy of that notification. Similarly, where an individual has knowledge that he or she is being investigated for wrongful conduct, that individual should be notified of the determination of the disclosure investigation at a time considered to be appropriate by the Investigating Officer so that any notice would not compromise any further actions deemed appropriate by the Investigating Officer.

It should be noted that a disclosure warranting a disclosure investigation is not the same as making a complaint of reprisal for disclosure. A complaint of reprisal for disclosure requires an adverse employment action as a result of the disclosure before it can be pursued as a complaint of reprisal.

Anti-Reprisal Provisions

Pursuant to Public Authorities Law Section 2857, as amended, the Authority shall not retaliate against any whistleblower for the disclosure of potential wrongdoing, whether through threat, coercion, or abuse of authority, nor shall the Authority interfere with the right of any employee by any improper means aimed at deterring disclosure of potential wrongdoing. Any attempts at retaliation or interference are strictly prohibited and:

- 1) No employee who in good faith discloses potential violations of this Whistleblower Policy or other instances of potential wrongdoing, shall suffer harassment, retaliation or adverse personnel action.
- 2) All allegations of retaliation against a Whistleblower or interference with an individual seeking to disclose potential wrongdoing will be thoroughly investigated by this Authority.
- 3) Any employee who retaliates against or had attempted to interfere with any individual for having in good faith disclosed potential violations of this Whistleblower Policy or other instances of potential wrongdoing is subject to discipline, which may include termination of employment.
- 4) Any allegation of retaliation or interference will be taken and treated seriously and irrespective of the outcome of the initial complaint, will be treated as a separate matter.

Complaints of Reprisal

1. An employee who has been subjected to an adverse employment action based on his or her prior disclosure of an alleged or actual wrongful conduct may contest the action by filing a written complaint of reprisal with the Chairman of the Authority. The Chairman, or his or her designee, will review the complaint expeditiously to determine:
 - Whether the complainant made a disclosure of alleged wrongful conduct before an adverse employment action was taken
 - Whether the responding party could reasonably have been construed to have had knowledge of the disclosure and the identity of the disclosing employee
 - Whether the complainant has in fact suffered an adverse employment action after having made the disclosure
 - Whether the complainant alleges that adverse employment action occurred as a result of the disclosure
2. Within 30 days from the receipt of the complaint, if the Chairman (or designee) determines that all of the above elements are present, the Chairman should appoint a review officer or panel to investigate the claim and make a recommendation to the Authority Board.
3. At the time of appointing a review officer or panel, the Chairman should inform, in writing, the complaining party and responding party of:
 - the intent to proceed with an investigation,
 - the specific allegations to be investigated,
 - the appointment of the review officer or panel, and
 - allowing each party the written opportunity to support or respond to the allegations.

4. In situations where impartiality of the review officer or panel is questioned and there are sufficient factual basis to support external review, the Chairman could call for review by an external party. In this case, the costs should be incurred by the Authority.
5. The Authority Board can define the standards for the review process.
6. Once the review officer or panel has conducted a review and considers the investigation to be complete, the officer or panel will notify the Chairman of its completion. From the date of that notice, the review officer has thirty (30) days to report his or her findings and make any recommendation he or she deems appropriate to the Chairman. The Chairman, in conferral with the appropriate administrator should issue a letter of findings to both the complainant and the respondent.
7. A decision at this stage is appealable to the full Authority Board on procedural grounds only.
8. Nothing in this policy is intended to interfere with legitimate employment decisions.

Other Legal Rights Not Impaired

This Whistleblower Policy and the procedures set forth herein are not intended to limit, diminish or impair any other rights or remedies that an individual may have under the law with respect to disclosing potential wrongdoing free from retaliation or adverse personnel action.

1. Specifically, these Whistleblower Policy and Procedures are not intended to limit any rights or remedies that an individual may have under the laws of the State of New York, including but not limited to the following provisions: Civil Service Law § 75-b, Labor Law § 740, State Finance Law § 191 (commonly known as the "False Claims Act"), and Executive Law § 55(1).
2. With respect to any rights or remedies that an individual may have pursuant to Civil Service Law § 75-b or Labor Law § 740, any employee who wishes to preserve such rights shall prior to disclosing information to a government body, have made a good faith effort to provide the Executive Director or his or her designee the information to be disclosed and shall provide the Executive Director or designee a reasonable time to take appropriate action unless there is imminent and serious danger to public health or safety. (See Civil Service Law § 75-b[2][b]; Labor Law § 740[3]).

WAYNE COUNTY WATER &
SEWER AUTHORITY
ADMINISTRATIVE REGULATION

WRONGFUL CONDUCT,
DISCLOSURE OF WRONGFUL CONDUCT (WHISTLE BLOWING)
AND PROTECTION FROM REPRISAL NOTICES

Date adopted: November 23, 2010

Last revised: May 28, 2019

To make clear the Authority Board's position on wrongful conduct, disclosure of wrongful conduct (whistle blowing), and protection from reprisal, the following message in a format of an 8 ½ inch by 11 inch printed notice shall be:

- Inserted as a page in all employee manuals;
- Posted in all employee lounges and break rooms;
- Discussed with all new employees at their orientation; and
- Posted in all Authority offices, and Executive Director's Office

STOP
THEFT and FRAUD

We urge employees to report theft or fraud (or suspected theft or fraud) of Authority money, equipment, resources, materials, or supplies, or the use of Authority paid work time for personal gain or profit, to authorities or police authorities. It is against the law to steal from the Authority or use Authority money, equipment, materials, or supplies, or paid work time for personal gain or profit. Every employee has a responsibility to protect what rightfully belongs to the public.

REPORT

By Authority policy you can report theft or fraud (or suspected theft or fraud) of money, equipment, resources, materials, or supplies, or the use of Authority paid work time for personal gain or profit to the following Board Officers or Appointees. They must strive to keep your identity confidential:

Martin J. Aman, Executive Director
Wayne County Water and Sewer Authority
3377 Daansen Road
Walworth, New York 14568
(315) 986-1929

LaVerne Blied, Authority Chairman

5126 Steurrys Road
Marion, N.Y. 14505
(315) 597-2324

Place a telephone call, or send a note or letter

YOU ARE PROTECTED

By Authority policy you are protected from any job reprisals as a result of your reporting or disclosure of theft or fraud (or suspected theft or fraud).

***Adopted by the Wayne County Water and Sewer Authority Board on May
28, 2019***

Complete copy available in the Wayne County Water and Sewer Authority
Employee Manual