

CITY OF DUNKIRK INDUSTRIAL DEVELOPMENT AGENCY

WHISTLEBLOWER POLICY

I. Introduction

- a. Scope: In accordance with Title 12 of Article 9 of the Public Authorities Law, the City of Dunkirk Industrial Development Agency (the “Agency”) is required to adopt a policy to afford certain protections to individuals who, in good faith, report violations of the Agency’s Code of Ethics or other instances of potential wrongdoing within the Agency.
- b. Purpose: This Whistleblower Policy (“Policy”) provides Agency members, directors, committee members, officers, and employees with a confidential means to report credible allegations of misconduct, wrongdoing, or unethical behavior and to protect those individuals, when acting in good faith, from personal or professional retaliation.

II. Definitions

- a. “Good Faith”: Information concerning potential wrongdoing is disclosed in “good faith” when the individual making the disclosure reasonably believes such information to be true and reasonably believes that it constitutes potential wrongdoing.
- b. “Agency Employee”: All members, directors, committee members, officers, and staff employed at the Agency whether employed full-time or part-time, employed pursuant to a contract, employed temporarily, or employees who are on probation.
- c. “Whistleblower”: Any Agency employee (as defined herein) who in good faith discloses information concerning wrongdoing by another Agency employee, or concerning the business of the Agency itself.
- d. “Wrongdoing”: Any alleged corruption, fraud, criminal or unethical activity, misconduct, waste, conflict of interest, intentional reporting of false or misleading information, or abuse of authority engaged in by an Agency employee (as defined herein) that relates to the Agency.
- e. “Personnel action”: Any action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement or evaluation of performance.

III. Reporting Wrongdoing

All Agency employees who discover or have knowledge of potential wrongdoing concerning board members, officers, or employees of the Agency; or a person having

business dealings with the Agency; or concerning the Agency itself, shall report such activity in accordance with the following procedures:

- a. The Agency Employee shall disclose any information concerning wrongdoing either orally or in a written report to his or her supervisor, or to the Agency's ethics officer, general counsel, or human resources representative.
- b. All Agency Employees who discover or have knowledge of wrongdoing shall report such wrongdoing in a prompt and timely manner.
- c. The identity of the whistleblower and the substance of his or her allegations will be kept confidential to the best extent possible.
- d. The individual to whom the potential wrongdoing is reported shall investigate and handle the claim in a timely and reasonable manner, which may include referring such information to the Authorities Budget Office or an appropriate law enforcement agency where applicable.
- e. Should an Agency Employee believe in good faith that disclosing information within the Agency pursuant to Section 3(a) above would likely subject him or her to adverse personnel action or be wholly ineffective, the Agency Employee may instead disclose the information to the Authorities Budget Office or to an appropriate law enforcement agency, if applicable. The Authorities Budget Office's toll free number (1-800-560-1770) should be used in such circumstances.

IV. No Retaliation or Interference

No Agency Employee shall retaliate against any whistleblower for the disclosure of potential wrongdoing, whether through threat, coercion, or abuse of authority; and, no Agency Employee shall interfere with the right of any other Agency employee by any improper means aimed at deterring disclosure of potential wrongdoing. Any attempts at retaliation or interference are strictly prohibited and:

- a. No Agency Employee who, in good faith, discloses potential violations of the Agency's Code of Ethics or other instances of potential wrongdoing shall suffer harassment, retaliation or adverse personnel action.
- b. All allegations of retaliation against a Whistleblower or interference with an individual seeking to disclose potential wrongdoing will be thoroughly investigated by the Agency.
- c. Any Agency Employee who retaliates against or attempts to interfere with any individual for having in good faith disclosed potential violations of the Agency's Code of Ethics or other instances of potential wrongdoing is subject to disciplinary action, which may include termination of employment.

- d. 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.

V. Other Legal Rights Not Impaired

The Whistleblower Policy and 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.

- a. 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).
- b. 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 appointing authority or his or her designee the information to be disclosed and shall provide the appointing authority 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]).

VI. Implementation

This Whistleblower Policy shall be provided to all members, directors, officers, and employees of the Agency and shall be reviewed annually by the Agency’s Governance Committee.

Revised and approved this 25th day of July, 2019