

ONEIDA COUNTY LOCAL DEVELOPMENT CORPORATION

WHISTLEBLOWER POLICY

Purpose

It is the policy of the Oneida County Local Development Corporation (the “Corporation”) to afford certain protections to individuals who in good faith (whether pursuant to this policy or otherwise in a manner which is protected under Section 740 of the New York State Labor Law) report violations of the Corporation’s Sexual Harassment Policy, Code of Ethics & Conflict of Interest Policy or other instances of potential wrongdoing within the Corporation. The Whistleblower Policy and Procedures set forth below are intended to encourage and enable employees to raise concerns in good faith within the Corporation and without fear of retaliation or adverse employment action.

This policy provides an avenue for all members, directors, officers, current and former employees and independent contractors, employees of independent contractors, and volunteers to report any suspected or actual conduct contrary to these requirements and standards without the fear of intimidation, harassment, discrimination, or retaliation.

In most cases, employee, independent contractor, consultant, and volunteer concerns can be addressed by the Corporation’s management in accordance with the applicable corporate policies and procedures. As such, this policy is not intended and may not be used for general complaints, employment grievances, etc. Such concerns should be pursued in accordance with the applicable policies and procedures articulated in employee handbooks and manuals or as otherwise promulgated by the Corporation from time to time.

Definitions

“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.

“Corporation Employee”: All members, directors, officers and staff employed (or formerly employed) at the Corporation whether full-time, part-time, employed pursuant to contract, employees on probation and temporary employees, as well as any current or former independent contractors, employees of independent contractors, and volunteers.

“Whistleblower”: Any Corporation Employee who in good faith discloses information concerning wrongdoing by another Corporation Employee, or concerning the business of the Corporation itself.

“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 a Corporation Employee that relates to the Corporation.

“Personnel action”: Any action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement or evaluation of performance.

Section I: Reporting Wrongdoing

All Corporation Employees who discover or have knowledge of potential wrongdoing concerning members, directors, officers, or employees of the Corporation; or a person having business dealings with the Corporation; or concerning the Corporation itself, shall, except as otherwise provided in Labor Law Section 740, report such activity in accordance with the following procedures:

- a) The Corporation Employee shall disclose any information concerning wrongdoing either orally or in a written report to his or her supervisor, or to the Corporation's ethics officer, general counsel or human resources representative. Written reports by mail or electronic mail shall be made on the Whistleblower Disclosure Statement attached as **Appendix "A"**. For reports made in person, the Recipient shall record the information reported on a Whistleblower Disclosure Statement. With the exception of a person's report of his or her own violation, the reporter shall not be required to provide his or her name on said form. However, anonymous reports must include sufficient information, including but not limited to, the name of the person against whom the report is being made, the date of the incident, the names of any potential witnesses, and a description of the incident, in order that an investigation can be conducted or other appropriate action can be taken.
- b) All Corporation 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, consistent with applicable laws and the need to conduct an adequate investigation and prevent or correct actual or suspected wrongdoing. Information relating to a report shall be provided only to those with a need to know so that effective investigation or other action can be taken. In appropriate cases, and without limitation, the investigation documents will be shared with law enforcement personnel. Disclosure of reports to individuals not involved in the investigation shall be viewed as a serious disciplinary offense and may result in discipline, up to and including dismissal, termination, or civil lawsuits.
- d) The individual to whom the potential wrongdoing is reported shall investigate and handle the claim in a timely and reasonable manner (including by notifying the Corporation's legal counsel, as appropriate, who shall assist in the investigation), which may include referring such information to the Authorities Budget Office or an appropriate law enforcement Corporation where applicable.
- e) Should a Corporation Employee believe in good faith that disclosing information within the Corporation pursuant to Section 1(a) above would likely subject him or her to adverse personnel action or be wholly ineffective, the Corporation Employee may instead disclose the information to an appropriate law enforcement Corporation, if applicable. The Authorities Budget Office's toll free number (1-800-560-1770) should be used in such circumstances.

Section II: Documentation

The individual to whom potential wrongdoing is reported shall document any investigation or other action carried out under this policy, including the rationale for any recommended resolution and/or corrective action. All documentation relating to the investigation, including the Whistleblower Disclosure Statement, and the resolution and/or corrective action taken shall be kept in the Corporation's records for at least five years.

Section III: No Retaliation or Interference

No Corporation Employee shall retaliate¹ against any whistleblower for the disclosure of potential wrongdoing, whether through threat, coercion, or abuse of authority; and, no Corporation Employee shall interfere with the right of any other Corporation Employee by any improper means aimed at deterring disclosure of potential wrongdoing. Any attempts at retaliation or interference are strictly prohibited.

- a) No Corporation Employee who in good faith discloses potential violations of the Corporation'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 this Corporation.
- c) Any Corporation Employee who retaliates against or had attempted to interfere with any individual for having in good faith disclosed potential violations of this Corporation's Code of Ethics or other instances of potential wrongdoing is subject to discipline, 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.

Section IV: 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.

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).

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]).

¹ New York law includes among prohibited retaliatory actions the following, without limitation: (i) adverse employment actions or threats to take such adverse employment actions against an employee in the terms of conditions of employment including but not limited to discharge, suspension, or demotion; (ii) actions or threats to take such actions that would adversely impact a former employee's current or future employment; or (iii) 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.

Section V: Distribution of Policy

This policy shall be posted on the Corporation’s website and may also be posted at the Corporation’s offices in a conspicuous location accessible to members, directors, officers, employees, independent contractors, and volunteers. Notification regarding the rights provided under Section 740 of the New York State Labor Law (effective January 26, 2022), which is annexed hereto as **Appendix “B”** (“Labor Law Section 740”), shall be included with such posting, and shall also be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment at the Corporation. In the event Labor Law Section 740 is amended, supplemented, or replaced at any time or from time to time, this policy shall automatically be deemed amended to refer to such amendments, supplements, or replacements without any need for an amendment to this policy, and such amendments, supplements, or replacements shall be annexed hereto as **Appendix “B”** in place of the statutory provisions which are so amended, supplemented, or replaced.

[remainder of page intentionally left blank]

Appendix A

CONFIDENTIAL

ONEIDA COUNTY LOCAL DEVELOPMENT CORPORATION

WHISTLEBLOWER DISCLOSURE STATEMENT

Date of Report: _____

REPORTER'S CONTACT INFORMATION: <i>Not required if being submitted anonymously</i>	
Name	Position/Title
Dept/Location	Work #
Home Address	Home/cell #
Best time to reach you	Email
Preferable method of communication:	

PERSON AGAINST WHOM THE REPORT OF ACTUAL OR SUSPECTED COVERED CONDUCT IS BEING MADE: <i>If more than one, please complete additional form(s).</i>	
Name	Position/Title
Dept/Location (if applicable)	Phone # (if known)

WITNESS(ES) TO ACTUAL OR SUSPECTED COVERED CONDUCT: <i>Attach additional sheets if necessary.</i>	
Name	Position/Title
Dept/Location	Phone # (if known)

Appendix B

NEW YORK STATE DEPARTMENT OF LABOR MODEL NOTICE

(see attached)

**Notice of Employee Rights, Protections, and Obligations
Under Labor Law Section 740
Prohibited Retaliatory Personnel Action by Employers
Effective January 26, 2022**

§ 740. Retaliatory action by employers; prohibition.

1. Definitions. For purposes of this section, unless the context specifically indicates otherwise:

- (a) "Employee" means an individual who performs services for and under the control and direction of an employer for wages or other remuneration, including former employees, or natural persons employed as independent contractors to carry out work in furtherance of an employer's business enterprise who are not themselves employers.
- (b) "Employer" means any person, firm, partnership, institution, corporation, or association that employs one or more employees.
- (c) "Law, rule or regulation" includes: (i) any duly enacted federal, state or local statute or ordinance or executive order; (ii) any rule or regulation promulgated pursuant to such statute or ordinance or executive order; or (iii) any judicial or administrative decision, ruling or order.
- (d) "Public body" includes the following:
 - (i) the United States Congress, any state legislature, or any elected local governmental body, or any member or employee thereof;
 - (ii) any federal, state, or local court, or any member or employee thereof, or any grand or petit jury;
 - (iii) any federal, state, or local regulatory, administrative, or public agency or authority, or instrumentality thereof;
 - (iv) any federal, state, or local law enforcement agency, prosecutorial office, or police or peace officer;
 - (v) any federal, state or local department of an executive branch of government; or
 - (vi) any division, board, bureau, office, committee, or commission of any of the public bodies described in subparagraphs (i) through (v) of this paragraph.
- (e) "Retaliatory action" means an adverse action taken by an employer or his or her agent to discharge, threaten, penalize, or in any other manner discriminate against any employee or former employee exercising his or her rights under this section, including (i) adverse employment actions or threats to take such adverse employment actions against an employee in the terms of conditions of employment including but not limited to discharge, suspension, or demotion; (ii) actions or threats to take such actions that would adversely impact a former employee's current or future employment; or (iii) 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.

- (f) "Supervisor" means any individual within an employer's organization who has the authority to direct and control the work performance of the affected employee; or who has managerial authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains.
2. Prohibitions. An employer shall not take any retaliatory action against an employee, whether or not within the scope of the employee's job duties, because such employee does any of the following:
 - (a) discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that the employee reasonably believes is in violation of law, rule or regulation or that the employee reasonably believes poses a substantial and specific danger to the public health or safety;
 - (b) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such activity, policy or practice by such employer; or
 - (c) objects to, or refuses to participate in any such activity, policy or practice.
 3. Application. The protection against retaliatory action provided by paragraph (a) of subdivision two of this section pertaining to disclosure to a public body shall not apply to an employee who makes such disclosure to a public body unless the employee has made a good faith effort to notify his or her employer by bringing the activity, policy or practice to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy or practice. Such employer notification shall not be required where:
 - (a) there is an imminent and serious danger to the public health or safety;
 - (b) the employee reasonably believes that reporting to the supervisor would result in a destruction of evidence or other concealment of the activity, policy or practice;
 - (c) such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor;
 - (d) the employee reasonably believes that reporting to the supervisor would result in physical harm to the employee or any other person; or
 - (e) the employee reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct such activity, policy or practice.
 4. Violation; remedy.
 - (a) An employee who has been the subject of a retaliatory action in violation of this section may institute a civil action in a court of competent jurisdiction for relief as set forth in subdivision five of this section within two years after the alleged retaliatory action was taken.
 - (b) Any action authorized by this section may be brought in the county in which the alleged retaliatory action occurred, in the county in which the complainant resides, or in the county in which the employer has its principal place of business. In any such action, the parties shall be entitled to a jury trial.
 - (c) It shall be a defense to any action brought pursuant to this section that the retaliatory action was predicated upon grounds other than the employee's exercise of any rights protected by this section.
 5. Relief. In any action brought pursuant to subdivision four of this section, the court may order relief as follows:
 - (a) an injunction to restrain continued violation of this section;
 - (b) the reinstatement of the employee to the same position held before the retaliatory action, or to an equivalent position, or front pay in lieu thereof;
 - (c) the reinstatement of full fringe benefits and seniority rights;

**To Be Posted Conspicuously in easily accessible and well-lighted places
customarily frequented by employees and applicants for employment.**

- (d) the compensation for lost wages, benefits and other remuneration;
 - (e) the payment by the employer of reasonable costs, disbursements, and attorney's fees;
 - (f) a civil penalty of an amount not to exceed ten thousand dollars; and/or
 - (g) the payment by the employer of punitive damages, if the violation was willful, malicious or wanton.
6. Employer relief. A court, in its discretion, may also order that reasonable attorneys' fees and court costs and disbursements be awarded to an employer if the court determines that an action brought by an employee under this section was without basis in law or in fact.
7. Existing rights. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any other law or regulation or under any collective bargaining agreement or employment contract.
8. Publication. Every employer shall inform employees of their protections, rights and obligations under this section, by posting a notice thereof. Such notices shall be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment.