

WESTERN FINGER LAKES SOLID WASTE MANAGEMENT AUTHORITY POLICY

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

Date Adopted: October 25, 2010

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 should disclose the conduct to the appropriate Authority official or appointee defined under this policy. 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 Administrator 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 the employee handbook, 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
- 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 Administrator, unless the Administrator 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 Administrator 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 Administrator (unless the disclosure is against actions of the Administrator) 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, 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 fire, discharge, demote, suspend, threaten, harass or discriminate against an employee because of the employee’s role as a whistleblower, insofar as the actions taken by the employee are legal.

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.

WESTERN FINGER LAKES SOLID WASTE MANAGEMENT
AUTHORITY
ADMINISTRATIVE REGULATION

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

Date adopted: October 25, 2010

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 Administrator'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:

Sharon Lilla, Administrator
Western Finger Lakes Solid Waste Management Authority
9 Pearl Street, Box 36
Lyons, New York 14489
[315 946-7650](tel:3159467650)

Frank Guelli, Authority Chairman
_____ Road
_____, N.Y. 14____
(315) _____

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 WESTERN FINGER LAKES SOLID WASTE MANAGEMENT
Authority Board on October 25, 2010***

Complete copy available in the Western Finger Lakes Solid Waste Management
Authority Employee Manual