

Reference: EXECUTIVE
Title: WHISTLEBLOWERS POLICY
Policy Number: 01-04-02
Revision Date: 09-26-19

I. PURPOSE

To prohibit supervisory personnel from taking adverse personnel action against an employee, or failing to take an otherwise appropriate action, as a result of the employees' good faith disclosure "of information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee or board member of the authority, concerning the authority's investments, travel, acquisition of real or personal property, the disposition of real or personal property and the procurement of goods and services." (NY Public Authorities Law § 2986(1)(c)) This also includes disclosure of a violation relating to public health or safety or alleged fraudulent or dishonest conduct. An employee who makes a disclosure that is not a baseless allegation and subsequently suffers an adverse personnel action as a result is subject to the protection of this policy.

II. POLICY

"No state or local authority shall 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." (NY Public Authorities Law § 2857) No adverse personnel action may be taken against a whistleblower with the intent or effect of adversely affecting the terms or conditions of employment (including but not limited to, threats of physical harm, loss of job, punitive work assignments, or impact on salary or wages) for disclosing alleged violations relating to public health or safety or fraudulent or dishonest conduct related to NFTA/Metro operations that are not baseless allegations. Whistleblowers who believe that they have been retaliated against may file a written complaint with the Manager of Equal Employment Opportunity/Diversity Development. A proven complaint of retaliation shall result in an appropriate remedy for the person harmed and if appropriate, and the initiation of disciplinary action, up to and including dismissal, against the retaliating person. This protection from retaliation is not intended to prohibit managers and supervisors from taking action, including disciplinary action, in the usual scope of their duties and based on valid performance-related issues. Employees are cautioned that making baseless allegations may subject the employee to disciplinary action by the company and/or legal claims by individuals accused of wrongful conduct.

III. DEFINITIONS

Baseless Allegations: allegations that the employee could not reasonably believe to be true or could not reasonably believe to constitute a violation relating to public health or safety or fraudulent or dishonest conduct.

Fraudulent or Dishonest conduct: a deliberate act or failure to act with the intention of obtaining an unauthorized benefit. Examples of such conduct include, but are not limited to:

- Embezzlement, misappropriation or other financial irregularities
- Forgery or alteration of documents (e.g. checks, time sheets, contractor agreements, purchase orders, other financial documents, electronic files)
- Improprieties in the handling or reporting of money or financial transactions
- Misappropriation of funds, securities, supplies, inventory, or any other asset (e.g. including furniture, fixtures or equipment)

- Authorizing or receiving payment for goods not received or services not performed
- Authorizing or receiving payments for hours not worked
- Questionable accounting, internal control or auditing issues

Violation relating to public health or safety: violation of a law, rule or regulations which violation creates and presents a substantial and specific danger to the public health or safety or which the employee reasonably believes to be true and reasonably believes constitutes an improper governmental action, as defined in section 75-b of the Civil Service Law.

Whistleblower: “shall mean any employee of a state or local authority who discloses information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee or board member of the authority, concerning the authority's investments, travel, acquisition of real or personal property, the disposition of real or personal property and the procurement of goods and services.” (NY Public Authorities Law § 2986(1)(c))

Note: Per Board Resolution 2 (D) (5) dated July 26, 2004 and revised via Board Resolution 2 (C) (1) dated September 26, 2019.