
SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

POLICY 3.04.17 WHISTLEBLOWER PROTECTION

I. Definitions

- A. Act Purposely – Acts with specific intention to cause a certain result
- B. Act Knowingly – Acts with awareness that the conduct will probably cause a certain result or be of a certain nature and has knowledge of the underlying circumstances.
- C. Act Recklessly – Acts with heedless indifference to consequences, disregards a known risk that the conduct is likely to cause a certain result or is likely to be of a certain nature.
- D. Privacy Violation – To use or disclose individually identifiable information in content or format other than in a manner that is prescribed by Board policy and procedure
- E. Retaliatory Action-- Includes, but is not limited to, removing or suspending employee from work; withholding salary increases or employee benefits to which employee is otherwise entitled; denying employee a promotion that would otherwise have been received; transfer or reassignment of employee that otherwise would not have occurred; reducing employee in pay or position as a result of employee's whistleblowing action.

II. Policy

A. Reports to be made

An employee of the Board who learns of the following shall make a report as required by Section III of this policy:

1. A violation of local, state or federal statutes, including, but not limited to, Medicaid fraud (per the Deficit Reduction Act of 2005), which the Board could correct, and the employee reasonably believes is a criminal offense that is likely to cause an imminent risk of physical harm to persons or a hazard to public health or safety, is a felony, or an improper solicitation for a contribution;

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

2. A violation by a fellow employee of any state or federal statute, any ordinance or regulation of a political subdivision, or any work rule or policy of the Board, and the employee reasonably believes that the violation is a criminal offense that is likely to cause an imminent risk of physical harm to persons or a hazard to public health or safety, is a felony, or an improper solicitation for a contribution;
3. A violation of Ohio Revised Code Chapters 3704 (Air Pollution Control Act), 3734 (Solid and Hazardous Wastes Act), 610. (Safe Drinking Water Act) or 6111 (Water Pollution Control) that is a criminal offense;
4. A violation of state or federal statutes, rules, or regulations that the employee believes is not a criminal offense, which his/her supervisor or the Superintendent could correct;
5. The misuse of public resources, which the employee's supervisor or the Superintendent could correct; or
6. A violation of state or federal statutes, rules, or regulations or misuse of public resources that is also a violation of Ohio Revised Code Chapter 102 (Ethics), Section 2921.42 (unlawful interest in public contract), or section 2921.43 (soliciting or receiving improper compensation).

B. Reporting

1. For reports to be made under paragraphs A. 1. and 2. above, the employee shall orally notify the his/her supervisor, Department Director, or the Superintendent of the violation. Subsequently, the employee shall file with the supervisor, Department Director, or the Superintendent a written report that provides sufficient detail to identify and describe the violation.

The employee is to submit the written report in a timely manner (no later than the end of the next working day). Failure to report within 24 hours will not prohibit the Board from taking action. If the issue to

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

be reported falls within the definition of MUI/UI reporting, the employee must follow those guidelines set forth in Ohio law and Board policy.

2. For reports made under paragraphs A. 4. and 5. above, the employee shall file a written report identifying the violation or misuse with the his/her supervisor, Department Director, or the Superintendent.

In addition to, or instead of, filing a written report with the employee's supervisor, Department Director, or the Superintendent, s/he may file a complaint with the Auditor of State's fraud-reporting system under Ohio Revised Code Section 117.103. The Auditor of the State has an established fraud reporting-system to be used for reporting fraud, including misuse of public money by any public official or office. Employees are able to make anonymous complaints via the fraud hotline (1-866-372-8364), the Auditor of the State's website (www.ohioauditor.gov) or through the United States mail (Special Investigations Unit, 88 East Broad Street, Columbus, OH 45215).

Moreover, if the employee believes the violation or misuse is a criminal offense, in addition to or instead of filing a report with the employee's supervisor, Department Director, or the Superintendent, the employee may report it to the Scioto County Prosecuting Attorney or a peace officer, such as the Scioto County Sheriff or a municipal police officer.

3. For reports made under paragraph A. 3. above, the employee directly may notify, either orally or in writing, any appropriate public official or agency that has regulatory authority over the Board.
4. For reports made under paragraph A.6. above, in addition to filing a report with the employee's supervisor, Department Director, or the Superintendent, the employee may report the violation or misuse to the Ohio Ethics Commission.
5. Reports made under paragraphs A. 1., 3., 4., 5. and 6. of violations that are believed to have been committed by a member of the Board, in his/her role as a board member, may be reported to the

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

Superintendent. Reports made under paragraphs A. 1. through 6. of violations that are believed to have been committed by the Superintendent may be reported to the Board President. Such reports made may also be made to any appropriate public official or agency outside of the SCBDD.

6. Supervisory staff receiving initial reports (oral or in writing) are to immediately relay this information to the Superintendent/designee. If the issue involves a privacy violation under HIPAA and ORC 5126.044, the Privacy Officer shall also be notified by the supervisory staff receiving the initial report.

Reports of Medicaid fraud shall also be reported to the Superintendent/designee by the supervisory staff receiving the initial report. The Superintendent will inform the Board President of the allegation and begin an investigation into the matter. Should the matter appear to be criminal in nature, the appropriate authorities shall be informed immediately after this determination is made.

C. Employee Responsibilities

It is the employee's responsibility to make a reasonable and good faith effort to accurately report the alleged impropriety to the appropriate authority. There are consequences for purposely, knowingly or recklessly reporting false information. Those consequences may include discipline, up to and including termination.

Failure to report may also result in disciplinary action, up to and including termination, subject to due process.

Reports made in good faith are encouraged and expected. A false complaint is not the same as an unsubstantiated complaint. Employees who file reports in good faith shall not be subject to retaliatory action from supervisors or co-workers. If retaliation occurs, the employee should immediately notify the Superintendent/designee or file and appeal (see paragraph E. below).

D. Board Responsibilities

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

1. After an employee submits a report, the Superintendent/designee is to notify the employee, in writing, of any effort that has taken to correct the alleged violation, hazard, or misuse, or the absence of the alleged violation, hazard, or misuse. The reporting employee is to be notified of the efforts/findings within 24 hours after the oral notification was made or the report was received, or by 4:30 p.m. on the next regular business day (Monday-Friday) following the day on which the oral notification was made or the report was received, whichever is later.

2. If violation is not corrected or if reasonable and good faith efforts to correct the violation are not made within twenty-four (24) hours after the oral notification or the receipt of the written report, whichever is earlier, the reporting employee may file a written report that provides sufficient detail to identify and describe the violation with the Scioto County Prosecuting Attorney, a peace officer, such as the Scioto County Sheriff or a municipal police officer, or any appropriate public official or agency that has regulatory authority over the Board.

3. Neither the Board nor any employee of the Board shall take any disciplinary or retaliatory action against an employee for making any report under this procedure or as a result of the employee having made any inquiry or taken any other action to ensure the accuracy of any information reported under this procedure.

E. Employee Appeal Rights

1. If the Board or an employee of the Board takes any disciplinary or retaliatory action against a reporting employee as a result of the employee's having filed a report under A. 1., 2. or 3. of this policy, the employee may file a civil action for appropriate injunctive relief, or for reinstatement to the same position that the employee held at the time of the disciplinary or retaliatory action and at the same site of employment or to a comparable position at that site, the payment of back wages, full reinstatement of fringe benefits and seniority rights, or any combination of these remedies, within one hundred eighty (180) days after the date the disciplinary or retaliatory action was

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

taken, in a court of common pleas in accordance with the Ohio Rules of Civil Procedure.

2. If the Board, or any employee of the Board, takes any disciplinary or retaliatory action against an employee as a result of the employee's having filed a report under A. 4., 5. or 6., the employee's sole and exclusive remedy, notwithstanding any other provision of law, is to file an appeal with the State Personnel Board of Review within thirty (30) days after receiving actual notice of the disciplinary or retaliatory action.

F. Effect of Policy

This procedure does not supersede any civil service rights of any employee or permit disclosures that would diminish or impair the rights of any person to the continued protection of confidentiality of communications, if a statute or common law provides such protection.

This policy supersedes any and all previous versions of the Whistleblower Policy approved by the Board.