

## **DHHS POLICIES AND PROCEDURES**

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<b>Section V-(a):</b>	<b>Human Resources</b>
<b>Title:</b>	<b>Division of Health Benefits, Whistleblower Protection Policy</b>
<b>Current Effective Date:</b>	<b>04/01/19</b>
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### **Purpose**

The Division of Health Benefits (DHB) is committed to protecting employees who report activities believed to be mismanagement, illegal, dishonest, unethical, a gross waste of funds, an absence of authority, or a substantial and specific danger to public health or safety or otherwise improper.

This policy applies to all current DHB employees, temporary staff, and job applicants.

### **Policy**

DHB will not retaliate against a whistleblower. This includes, but is not limited to, protection from retaliation in the form of an adverse employment action such as termination, compensation decreases, or poor work assignments and threats of physical harm. Any whistleblower who believes he/she is being retaliated against must contact the Human Resources Manager immediately. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.

1. Whistleblower protections are provided in two important areas: confidentiality and retaliation. Insofar as possible, the confidentiality of the whistleblower will be maintained. However, identity may have to be disclosed to conduct a thorough investigation, to comply with the law, and to provide accused individuals their legal rights of defense.
2. Individuals protected include:
  - a. the employee, or a person acting on behalf of the employee, who reports to a public body or is about to report to a public body a matter of public concern; or
  - b. the employee who participates in a court action, an investigation, a hearing, or an inquiry held by a public body on a matter of public concern.
3. DHB may not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment.

4. DHB may not disqualify an employee or other person who brings a matter of public concern, or participates in a proceeding connected with a matter of public concern, before a public body or court, because of the report or participation, from eligibility to bid on contracts with the organization; receive land under a district ordinance; or receive another right, privilege, or benefit.
5. The provisions of this policy do not:
  - a. require the organization to compensate an employee for participation in a court action or in an investigation, hearing, or inquiry by a public body;
  - b. prohibit the organization from compensating an employee for participation in a court action or in an investigation, hearing, or inquiry by a public body;
  - c. authorize the disclosure of information that is legally required to be kept confidential; or
6. Limitation to protections:
  - a. A person is not entitled to the protections under this policy unless he or she reasonably believes that the information reported is, or is about to become, a matter of public concern; and reports the information in good faith;
  - b. A person is entitled to the protections under this policy only if the matter of public concern is not the result of conduct by the individual seeking protection, unless it is the result of conduct by the person that was required by his or her employer;
  - c. Before an employee initiates a report to a public body on a matter of public concern under this policy, the employee shall submit a written report concerning the matter to the Department of Health and Human Services (DHHS) Secretary. However, the employee is not required to submit a written report if he/she believes with reasonable certainty that the activity, policy, or practice is already known to the secretary; or that an emergency is involved.

## Definitions

1. “Whistleblower” is defined by this policy as an employee/temporary state employee who reports, to one or more of the parties specified in this policy, an activity that he/she considers to be mismanagement, illegal, dishonest, unethical, a gross waste of funds, an absence of authority, or a substantial and specific danger to public health and safety or otherwise improper.

2. “Employee,” means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied for the division.
3. “Matter of Public concern” means:
  - a. a violation of a state, federal, or municipal law, regulation or ordinance”
  - b. a danger to public health or safety; and/or
  - c. gross mismanagement, substantial waste of funds, or a clear abuse of authority.
4. “Public body” includes an officer or agency of:
  - a. the federal government;
  - b. the state.

## **Roles and Responsibilities – Not Applicable**

### **Implementation**

If an employee has knowledge of or a concern of illegal or dishonest/fraudulent activity, the employee is to contact his/her immediate supervisor or the Human Resources Manager. All reports or concerns of illegal and dishonest activities will be promptly submitted by the receiving supervisor to the Human Resources Manager who is responsible for investigating and coordinating any necessary corrective action. Any concerns involving the DHB Human Resources Manager should be reported to the DHHS Human Resources Director.

The whistleblower is not responsible for investigating the alleged illegal or dishonest activity, or for determining fault or corrective measures; appropriate management officials are charged with these responsibilities.

Examples of illegal or dishonest activities include violations of federal, state, or local laws; billing for services not performed or for goods not delivered; and other fraudulent financial reporting. The employee must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing will be subject to disciplinary action.

*For questions or clarification on any of the information contained in this policy, please contact the DHB Human Resources Manager. For general questions about department-wide policies and procedures, contact the [DHHS Policy Coordinator](#).*