

Whistleblower Protection Policy

A whistleblower as defined by this policy is an employee or contractor of Rochester Public Library District (RPLD) who reports an activity that he/she considers to be illegal or dishonest to one or more of the parties specified in this policy. The whistleblower is not responsible for investigating the activity or for determining fault or corrective measures; appropriate management officials are charged with these responsibilities.

Examples of illegal or dishonest activities are violations of federal, state, or local laws; billing for services not performed or for goods not delivered; and other fraudulent financial reporting. A board member will serve as the auditor for the library and will be appointed by the board president at the beginning of each fiscal year.

If an employee/contractor has knowledge of or a concern of illegal or dishonest fraudulent activity, the employee/contractor is to contact the auditor, or, in the event that individual is the subject of the complaint and/or not available, the library director. The employee/contractor must exercise sound judgment to avoid baseless allegations. An employee/contractor who intentionally files a false report of wrongdoing will be subject to discipline up to and including termination.

Whistleblower protections are provided in two important areas – confidentiality and against 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. The library will not retaliate against a whistleblower for:

- Reporting an improper governmental action pursuant to this policy;
- Cooperating with an investigation by an auditing official related to a report of improper governmental action; or,
- Testifying in a proceeding or prosecution arising out of an improper governmental action.

This protection includes, but is not limited to, protection from retaliation in the form of an adverse employment action such as denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unsubstantiated letters of reprimand or unsatisfactory performance evaluations; demotion; reduction in pay; denial of promotion; transfer or reassignment; suspension or dismissal; or other disciplinary action made because of an employee's protected activity under this policy. **Any whistleblower who believes he/she is being retaliated against should contact the auditor or his/her designee immediately.** Reports of retaliation must be made in writing and within 60 days of learning of the retaliatory action. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.

All reports of illegal and dishonest activities pursuant to this policy must be made in writing and will be promptly investigated. Please see the investigation procedures that follow.

Guidance for Review and Resolution of Whistleblower and Retaliation Complaints Brought Pursuant to RPLD's Whistleblower Policy

- As directed in the policy, whistleblower and retaliation claim should be reported to the auditing official or, in the event they are unavailable and/or named in the complaint, to the library director. These individuals have the authority to appoint other members of the management team, board and/or outside counsel/consultants to assist with the investigation.
- Upon receiving such a report, the auditing official or his/her designee will consult with others (the board, outside counsel) to determine whether the claim falls under the whistleblower policy and, if so, how to best proceed. Employment-related concerns, including, but not limited to, harassment, discrimination, bullying, and other such work-related complaints are not covered by this policy.
- Confidentiality of the individual making the complaint, as well as any witnesses, will be respected consistent with the library's need to investigate.
- After a written complaint is received by the auditor, a written acknowledgement notice may be sent to the complainant that may include a timeline for review, investigation, and resolution.
- The auditor or his/her designee may meet with the complainant, respondent, and/or other witnesses as a part of the investigation. The auditor or his/her designee has the authority to conduct multiple interviews, if needed. The auditor or his/her designee may also request written statements and/or other documentation that may be pertinent to the resolution of the complaint.
- If it is determined that the conduct that is the subject of the complaint involves fraud or illegal/egregious conduct, the auditor or his/her designee has the authority to conduct the investigation in a more formal manner. This may include a report to law enforcement agencies.
- Upon completion of the investigation, the complainant and respondent will be notified that the investigation has ended, and the decision made. This notification may take place orally or in writing. If the auditor or his/her designee determines this policy has been violated, the board will be notified. Remedies and discipline for policy violations will be in accordance with applicable law.

Whistleblower Policy and Procedures

Employee Acknowledgment

(To Be Distributed Upon Hire and Annually Thereafter)

I acknowledge that I have received a copy of the library's Whistleblower Policy and Procedures and understand that it is my responsibility to read it, understand it, and comply with it. I have also received a copy of Section 4.1 of the Public Officer Prohibited Activities Act. I understand that the library has the maximum discretion permitted by law to interpret, administer, change, modify, or delete this policy at any time (with or without notice). No statement or representation by a supervisor or manager or any other employee, whether oral or written, can supplement or modify this policy. Changes can only be made if approved in writing by the board.

I understand that neither this policy nor any other communication by a management representative or any other employee, whether oral or written, is intended in any way to create a contract of employment. I understand that, unless I have a written employment agreement signed by an authorized member of the board, I am employed at will and this policy does not modify my at-will employment status. If I have a written employment agreement signed by the board or am subject to a collective bargaining agreement and this policy conflicts with the terms of my employment agreement or collective bargaining agreement, I understand that the terms of my employment agreement will control.

(Employee's Signature)

(Employee's Printed Name)

(Date)

50 ILCS 105/4.1

Sec. 4.1. Retaliation against a whistleblower.

(a) It is prohibited for a unit of local government, any agent or representative of a unit of local government, or another employee to retaliate against an employee or contractor who:

- (1) reports an improper governmental action under this Section;
- (2) cooperates with an investigation by an auditing official related to a report of improper governmental action; or
- (3) testifies in a proceeding or prosecution arising out of an improper governmental action.

(b) To invoke the protections of this Section, an employee shall make a written report of improper governmental action to the appropriate auditing official. An employee who believes he or she has been retaliated against in violation of this Section must submit a written report to the auditing official within 60 days of gaining knowledge of the retaliatory action. If the auditing official is the individual doing the improper governmental action, then a report under this subsection may be submitted to any State's Attorney.

(c) Each auditing official shall establish written processes and procedures for managing complaints filed under this Section, and each auditing official shall investigate and dispose of reports of improper governmental action in accordance with these processes and procedures. If an auditing official concludes that an improper governmental action has taken place or concludes that the relevant unit of local government, department, agency, or supervisory officials have

hindered the auditing official's investigation into the report, the auditing official shall notify in writing the chief executive of the unit of local government and any other individual or entity the auditing official deems necessary in the circumstances.

(d) An auditing official may transfer a report of improper governmental action to another auditing official for investigation if an auditing official deems it appropriate, including, but not limited to, the appropriate State's Attorney.

(e) To the extent allowed by law, the identity of an employee reporting information about an improper governmental action shall be kept confidential unless the employee waives confidentiality in writing. Auditing officials may take reasonable measures to protect employees who reasonably believe they may be subject to bodily harm for reporting improper government action.

(f) The following remedies are available to employees subjected to adverse actions for reporting improper government action:

(1) Auditing officials may reinstate, reimburse for lost wages or expenses incurred, promote, or provide some other form of restitution.

(2) In instances where an auditing official determines that restitution will not suffice, the auditing official may make his or her investigation findings available for the purposes of aiding in that employee or the employee's attorney's effort to make the employee whole.

(g) A person who engages in prohibited retaliatory action under subsection (a) is subject to the following penalties: a fine of no less than \$500 and no more than \$5,000, suspension without pay, demotion, discharge, civil or criminal prosecution, or any combination of these penalties, as appropriate.

(h) Every employee shall receive a written summary or a complete copy of this Section upon commencement of employment and at least once each year of employment. At the same time, the employee shall also receive a copy of the written processes and procedures for reporting improper governmental actions from the applicable auditing official.

(i) As used in this Section:

"Auditing official" means any elected, appointed, or hired individual, by whatever name, in a unit of local government whose duties are similar to, but not limited to, receiving, registering, and investigating complaints and information concerning misconduct, inefficiency, and waste within the unit of local government; investigating the performance of officers, employees, functions, and programs; and promoting economy, efficiency, effectiveness and integrity in the administration of the programs and operations of the municipality. If a unit of local government does not have an "auditing official", the "auditing official" shall be a State's Attorney of the county in which the unit of local government is located within.

"Employee" means anyone employed by a unit of local government, whether in a permanent or temporary position, including full-time, part-time, and intermittent workers. "Employee" also includes members of appointed boards or commissions, whether or not paid. "Employee" also includes persons who have been terminated because of any report or complaint submitted under this Section.

"Improper governmental action" means any action by a unit of local government employee, an appointed member of a board, commission, or committee, or an elected official of the unit of local government that is undertaken in violation of a federal, State, or unit of local government law or rule; is an abuse of authority; violates the public's trust or expectation of his or her conduct; is of substantial and specific danger to the public's health or safety; or is a gross waste of public funds. The action need not be within the scope of the employee's, elected officials,

board members, commission member's, or committee member's official duties to be subject to a claim of "improper governmental action". "Improper governmental action" does not include a unit of local government personnel actions, including, but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployment, performance evaluations, reductions in pay, dismissals, suspensions, demotions, reprimands, or violations of collective bargaining agreements, except to the extent that the action amounts to retaliation.

"Retaliate", "retaliation", or "retaliatory action" means any adverse change in an employee's employment status or the terms and conditions of employment that results from an employee's protected activity under this Section. "Retaliatory action" includes, but is not limited to, denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unsubstantiated letters of reprimand or unsatisfactory performance evaluations; demotion; reduction in pay; denial of promotion; transfer or reassignment; suspension or dismissal; or other disciplinary action made because of an employee's protected activity under this Section.

Approved August, 2023