

GLEN COVE COMMUNITY DEVELOPMENT AGENCY
City Hall – 9 Glen St., Glen Cove, New York 11542

Minutes of Meeting September 24, 2019

Resolution #13)

**RESOLUTION OF THE GLEN COVE COMMUNITY DEVELOPMENT AGENCY
ADOPTING THE AMENDED/RESTATED “WHISTLEBLOWER” POLICY**

BE IT RESOLVED, that the Glen Cove Community Development Agency hereby adopts the amended-restated “Whistleblower” Policy consistent with Public Authorities Law 2986 and 2857 to include the provision related to “Actions by an Authority” (see attached).

The question of adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<u>VOTING</u>
Timothy Tenke, Chairman	AYE
Vincent C. Hartley, Vice Chairman	AYE
Danielle Fugazy-Scagliola	AYE
Anthony Jimenez	AYE
Gaitley Stevenson-Matthews	AYE
<i>Rev. Roger C. Williams</i>	<i>Absent</i>
Danielle D. Willis	AYE

The foregoing Resolution was thereupon declared duly adopted.

ENTERED
CDA 9-24-19

To the Board and CEO:

Public Authorities Law § 2986 (2) and (3) requires all public authorities in New York State to have a Whistleblower policy and to post such on their website.

Please explain by August 30, 2019 the following:

- Whether your authority has adopted a whistleblower policy consistent with Public Authorities Law § 2986 (2) and (3)
- Why your authority does not have a Whistleblower policy or why it has not been posted publicly
- How your authority plans to remedy this action
- A tentative timeline for such remedy

In addition, we ask that you make sure that the posted Whistleblower policy is in compliance with Public Authorities Law § 2857. This section reads:

Actions by an authority. 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

We ask that you respond promptly to this request. If your authority continues to be noncompliant on this policy, you will be subject by enforcement action by the ABO. If you have any questions about whistleblower policies under Public Authorities Law, feel free to contact the ABO for further guidance at:

Authorities Budget Office
240 State Street
Post Office Box 2076
Albany, New York 12220-0076
(518) 474-1932

Sincerely,

Jeffrey H. Pearlman
Director
New York State Authorities Budget Office
P.O. Box 2076
Albany, NY 12220-0076
Desk: 518.408.1228
jeff.pearlman@abo.ny.gov
www.abo.ny.gov

RECEIVED

AUG 12 2019

GLEN COVE COMMUNITY
DEVELOPMENT AGENCY

GLENN COVE COMMUNITY DEVELOPMENT AGENCY

“WHISTLEBLOWER” POLICY

This Policy is adopted pursuant to the provisions of the
Public Authorities Accountability Act of 2005

1. Intent. The Glen Cove Community Development Agency (the “Agency”) finds it desirable to establish procedures regarding the reporting of allegations of improper governmental action and, in conformity with section seventy-five-b of the New York Civil Service Law (Retaliatory action by public employers) and section seven hundred forty of the New York Labor Law (Retaliatory personnel action by employers; prohibition), to protect employees who make allegations of improper governmental action.

2. Definitions.

“Improper governmental action” shall mean any action, including fraud, waste and abuse of authority by an Agency officer or employee, or an agent of such officer or employee, which is undertaken in the performance of such officer’s, employee’s, or agent’s official duties, whether or not such action is within the scope of his or her employment, that is in violation of any federal, state or local law, rule or regulation.

“Employee” shall mean any person holding a position by appointment or employment in the service of the Agency whether compensated, or a volunteer expressly authorized to participate in an Agency-sponsored volunteer program but shall not include an independent contractor.

“City” shall mean the City of Glen Cove.

3. Reporting allegations of improper governmental actions.

(a) An employee who has information about a government action which he or she reasonably believes to be true and reasonably believes constitutes an improper governmental action may disclose such information to a supervisor, a governmental body as defined in paragraph c of subdivision 1 of section seventy-five-b of the New York Civil Service Law, or an Agency official, including, but not limited to, any of the following officials:

the District Attorney, if the allegation involves criminal acts;
the City Compliance Officer;
the City Board of Ethics;
the Agency's personnel officer;
the Mayor or a Deputy Mayor;
a member of the City Council;
the City Attorney;
the City Controller, if the allegation involves misuse of public funds;
or the head of the employee's department.

(b) Any government official receiving such information concerning improper governmental action shall: first, review such information; and second, if such review indicates an apparent improper governmental action, take appropriate corrective measures and where appropriate, refer such information to the appropriate investigative authority, including but not limited to the Compliance Officer, the District Attorney, the Controller or any state or federal agency with jurisdiction over the matter.

(c) All reasonable efforts shall be made to protect the anonymity and confidentiality of the employee making the allegations.

(d) Notwithstanding the provisions of this section, any employee who wishes to preserve his or her right to pursue a claim pursuant to section seventy-five-b of the civil service law shall, prior to disclosing information pursuant to subparagraph (a) of this subdivision, make a good faith effort to provide the appointing authority or his or her designee the information to be disclosed and shall provide the appointing authority or designee a reasonable time to take appropriate action unless there is imminent and serious danger to public health or safety.

4. Use of authority or influence prohibited.

(a) A government official may not, directly or indirectly, use or attempt to use his or her official authority or influence to intimidate, threaten, coerce, command or influence any individual in order to interfere with such

individual's right to disclose information relative to improper governmental action.

(b) Use of official authority or influence shall include:

- (i) Promising to confer any benefit (such as compensation, grant, contract, license or ruling) or effecting or threatening to affect any reprisal (such as deprivation of any compensation, grant, contract, license or ruling); or
- (ii) Taking, directing others to take, recommending, processing or approving any personnel action. For the purposes of this section, "personnel action" shall mean those actions set forth in paragraph (d) of subdivision (1) of section seventy-five-b of the New York Civil Service Law.

5. Actions by an Authority:

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.

6. No Retaliation or Interference:

- a) No employee shall retaliate against any Whistleblower for the reporting of wrongdoing, whether by threat, coercion, abuse of authority or adverse employment action, and no employee shall interfere with the right of any other employee by any improper means aimed at deterring the reporting of wrongdoing. Any such retaliation or interference is strictly prohibited by the Agency.
- b) No employee who in good faith discloses wrongdoing shall suffer harassment, retaliation or adverse personnel action.
- c) All allegations of retaliation against a Whistleblower or interference with an Employee seeking to report wrongdoing will be thoroughly investigated by the Corporation.

- d) Any employee who retaliates against a Whistleblower or attempts to interfere with an employee seeking to report Wrongdoing shall be subject to discipline, which may include, but is not limited to, termination of employment
 - e) Any allegation of retaliation or interference will be taken and treated seriously by the Corporation and, irrespective of the outcome of the initial report of wrongdoing, will be treated as a separate matter.
 - f) If an employee believes in good faith that reporting wrongdoing within the Agency pursuant to the subsections outlined herein would likely subject such employee to adverse personnel action or be wholly ineffective, the employee may instead report the wrongdoing to the New York State Authorities budget Office (the “Authorities Budget office”) or an appropriate law enforcement agency, if applicable. The Authorities Budget Office’s toll-free number (1-800-560-1770) should be used in such circumstances.
7. Civil Action Authorized. An employee who has been the subject of retaliatory personnel action, including discharge, suspension, demotion or other adverse personnel action, following such employee’s disclosure of information concerning improper governmental action pursuant to this section, may, within one year of such alleged retaliatory action, commence a civil action in a court of competent jurisdiction for the following relief: (a) reinstatement of such employee to the same position he or she held before such adverse personnel action; (b) compensation for lost wage, benefits and other remuneration; and (c) payment by the employer of reasonable costs, disbursements, and attorney’s fees.
8. Employer relief. A court, in its discretion, may also order that reasonable attorneys’ fees and court costs and disbursements be awarded to an employer if the court determines that an action brought by an employee under this section was without basis in law or in fact.
9. Notification to employees. Information about this provision and section seventy-five-b of the New York Civil Service Law and section seven hundred forty of the New York Labor Law shall be provided to all Agency employees and shall be included in the informational package provided to employees upon commencement of employment with the Agency.

10. Other rights not affected. Nothing in this section shall be deemed to diminish or impair the rights of a public employee or employer under any law, rule, regulation or collective bargaining agreement or to mean a limitation on any grievance mechanism or right of appeal and/or judicial review currently enjoyed thereby.

Adopted January 27, 2009

Amended and re-adopted 9-24-19