

## WHISTLEBLOWER PROTECTION POLICY

SECTION: Basic Policy

POLICY NUMBER:

AP 18

INITIAL DATE PREPARED: August 27, 2010

LAST DATE REVIEWED:

### I. PURPOSE

To define and affirm the Port of Oakland's ("Port") policy to protect all Port employees who act as whistleblowers from retaliation.

### II. POLICY

- A. A "whistleblower" is ~~an officer or employee~~ anyone who reports through the Port's Whistleblower Hotline any information which, if true, would constitute one of the following:
1. a work-related violation by a Port officer or employee of any law or regulation;
  2. fraud, waste, or mismanagement of Port assets or resources;
  3. gross abuse of authority;
  4. a specific and substantial danger to public health or safety due to an act or omission of a Port officer ~~erial~~ or employee;
  5. use of a Port office, position, or resources for personal gain.
- B. Anyone filing a complaint concerning a suspected violation must be acting in good faith and have reasonable grounds for believing the information disclosed falls within one or more of the enumerated categories in Subsection II-A. ~~indicates a violation that would constitute any of the foregoing items. An individual~~ A Port officer or employee who deliberately or maliciously provides false information may be subject to disciplinary action (up to and including discharge).
- C. To the extent permitted by law, reports of suspected violations will be kept confidential. A reporter's identity may be shared, however, when necessary to conduct an adequate investigation.
- D. No officer or employee of the Port shall use or threaten to use any official authority or influence to restrain or prevent any other person who is acting as a whistleblower in good faith and upon reasonable belief ~~as a whistleblower~~. Further, no officer or employee of the

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Port shall use or threaten to use any official authority or influence to cause an adverse employment action as a reprisal against a Port employee who acts as a whistleblower in good faith and with reasonable belief that improper conduct has occurred.

- E. Any officer or employee [of the Port](#) who knowingly engages in conduct prohibited by this policy shall be disciplined, up to and including discharge.

### III. PROCEDURES

- A. Any officer or employee [of the Port](#) who believes that he or she has been subjected to an adverse employment action as a result of being a whistleblower may file a written complaint of retaliation within 30 days from the date of the alleged retaliatory action with the Chief Audit Officer (“CAO”) or ~~the Port Attorney~~, if the CAO is the subject of the complaint, [with the Port Attorney](#).

- B. The complainant shall at least include:

1. A description of the nature of the alleged retaliatory action taken or threatened in violation of this policy;
2. The date(s), time(s), and location(s) and a detailed description of the alleged violation(s);
3. The name(s) of the alleged offender(s);
4. The name(s) of witnesses, if any;
5. The facts which led the employee to believe that the person or persons initiating or threatening to initiate retaliatory action have knowledge of the employee’s having made or filed any complaints which if true would constitute any of the items enumerated in [Subsection II-A](#) of this policy; and
6. Any other information that would be of assistance in the investigation.

- C. Upon receipt of a complaint, the CAO (~~or the Port Attorney, if the CAO is the subject of the complaint~~); will [refer the complaint to the work with](#) Port’s Office of Equal Opportunity ~~for and thereupon conduct an~~ investigation. In the event that the CAO or the Port Attorney

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determines that an investigation conducted by Port staff would present a conflict of interest, an independent investigator shall be appointed. The investigation should be completed within 90 days, absent any extraordinary circumstances.

- D. Upon completion of the investigation, the CAO (or the Port Attorney, if the CAO is the subject of the complaint), shall provide the [Port Attorney](#), Executive Director, and the Board of Port Commissioners [with](#) a written [investigative](#) report indicating the [results](#)~~final outcome~~. Any reports regarding retaliation shall be confidential and not subject to disclosure.
- E. If it is determined by the investigation that retaliation occurred in violation of this policy, appropriate disciplinary action, up to and including discharge, shall be instituted against the person(s) found to have engaged in such conduct.
- F. The CAO shall provide the Executive Director and the Board of Port Commissioners with a quarterly summary of all complaints received including the status of each complaint as of the end of each quarter.