

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 a Port officer or employee who reports through the Port's Whistleblower Hotline any information (i.e., "complaint") which, if true, would constitute one of the following:
1. a work-related violation by a Port officer or employee (hereinafter, "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 official or employee;
 5. use of a Port office, position, or resources for personal gain.
- B. A whistleblower must be acting in good faith and have a reasonable basis for believing the information disclosed falls within one or more of the enumerated categories in Subsection II-A. Upon a written finding by the Chief Audit Officer ("CAO") that a Port employee filed a complaint that was knowingly false or was made in reckless disregard of the truth, or that it lacks any arguable basis to support its claims, the CAO shall refer the findings to the Port employee's appointing authority as defined in the Board of Port Commissioner's ("Board") By-Laws and Administrative Rules ("By-Laws") for appropriate disciplinary action.
- 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 investigation.
- D. No Port employee 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. Further, no Port employee shall use or threaten to use any official

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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 **Port employee** who knowingly engages in conduct prohibited by this policy shall be disciplined, up to and including discharge.

III. PROCEDURES

- A. Any **Port employee** 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 CAO or, 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 Port's Office of Equal Opportunity for investigation. In the event that the CAO or the Port Attorney determines that an investigation conducted by Port staff would present a conflict of interest, an independent

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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- with a written investigative report indicating the results. Any reports regarding retaliation shall be confidential and not subject to disclosure.
- E. In the event the investigation sustains a Port employee's violation of this policy, the CAO shall forward the written investigative report to the Port Attorney, Human Resources Director, and the employee's appointing authority, as defined in the Board By-Laws, for appropriate disciplinary action.
- F. The CAO shall provide the Executive Director, Port Attorney, and the Board of Port Commissioners with a quarterly summary of all complaints received during the quarter including the status of each complaint as of the end of each quarter.