

BUFFALO FISCAL STABILITY AUTHORITY
WHISTLEBLOWER POLICY

It is the policy of the Buffalo Fiscal Stability Authority (BFSA) to encourage individuals to report illegal or unethical practices. Individuals who have a reason to believe or suspect that BFSA, its agents, employees, board members, or independent contractors are acting illegally, engaging in unethical practices, or acting in a manner contrary to applicable laws, are encouraged to report such activity. A “Whistleblower” is any current employee, former employee, or independent contractor who in good faith discloses information concerning wrongdoing by the BFSA, as conducted by either an individual or to the business of the BFSA itself.

New York State Labor Law §740 (as amended) expanded the definition of the persons protected under the law from current employees to also include former employees and independent contractors (all covered individuals are defined as “Covered Whistleblowers”). The law protects Covered Whistleblowers who disclose or threaten to disclose to a supervisor or to a public body an activity, policy, or practice that the Covered Whistleblower reasonably believes is in violation of law, rule or regulation or reasonably believes poses a substantial and specific danger to the public health or safety. Covered Whistleblowers are protected even if no actual violation or danger exists.

Broad categories of suspect conduct include but are not limited to violation of laws or government regulations; violation of BFSA policy; mismanagement; waste of BFSA and/or taxpayer funds; abuse of BFSA powers; and wrongful conduct. Some examples include but are not limited to: dishonest acts and/or fraudulent activity; harassment; discrimination; violation of controlled substance laws; embezzlement; theft; destruction; removal or concealment of property; alteration or falsification of paper or electronic documents; false claims and/or misrepresentation of facts; and inappropriate use of computer systems (including hacking, software piracy, viewing and/or sending unlawful or obscene emails or websites).

A Covered Whistleblower will only be required to make a “good faith” effort to notify the employer of the activity and afford the employer a reasonable opportunity to correct the activity before notifying a public body. Notification will not be required where (a) there is an imminent and serious danger to the public health or safety; (b) the Covered Whistleblower reasonably believes that reporting to the supervisor would result in a destruction of evidence or other concealment of the activity, policy or practice; (c) such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor; (d) the Covered Whistleblower reasonably believes that reporting to the supervisor would result in physical harm to the Covered Whistleblower or any other person; or (e) the Covered Whistleblower reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct such activity, policy or practice.

BFSA is prohibited from discharging, threatening, penalizing or in any other manner discriminating against a Covered Whistleblower for exercising the Covered Whistleblower's rights under the law, including (a) adverse employment actions or threats to take such adverse employment actions against an employee in the terms of conditions of employment including but not limited to discharge, suspension, or demotion; (b) actions or threats to take such actions that would adversely impact a former employee's current or future employment; or (c) threatening to contact or contacting United States immigration authorities or otherwise reporting or threatening to report a Covered Whistleblower's suspected citizenship or immigration status or the suspected citizenship or immigration status of a Covered Whistleblower's family or household member.

Covered Whistleblowers may disclose any information concerning wrongdoing either orally and/or in a written report to a supervisor, to the ethics officer, to the legal counsel, and/or to the human resources representative. If the supervisor, ethics officer, legal counsel, and/or human resources representative is involved in the complaint of action, the employee may bring this matter to the Chair or the Vice-Chair of the Board of Directors. Any such communication will be strictly confidential. BFSA will not tolerate any form of retaliation against an Covered Whistleblower for raising concerns about practices within BFSA.

Should a Covered Whistleblower believe in good faith that disclosing information within the BFSA organization pursuant to this policy would likely subject the Covered Whistleblower to adverse personnel action or be wholly ineffective; the Covered Whistleblower may instead disclose the information to the New York State Office of the Inspector General, the New York State Authorities Budget Office, the New York State Joint Commission on Public Ethics, and/or an appropriate law enforcement agency, if applicable.

Reaffirmed: July 26, 2023