

WORKFORCE SOLUTIONS TEXOMA POLICIES & PROCEDURES

CHAPTER 19 WHISTLE BLOWER'S POLICY

TABLE OF CONTENTS

19.1 BACKGROUND

19.2 DEFINITIONS

19.3 POLICIES

19.3.1 Anonymous Allegations

19.3.2 Acting in Good Faith

19.3.3 False Allegation

19.3.4 Retaliation

19.3.5 Confidentiality

19.3.6 Reporting a Crime

19.4 COVERED INDIVIDUALS

19.5 PROCEDURES

19.6 RESPONSIBILITIES

19.6.1 Individual Staff

19.6.2 Supervisors/Management

19.6.3 Contractors

19.1 Background

Workforce Solutions of Texoma (WST) is committed to high standards of ethical, moral and legal conduct. In line with this commitment, and WST's commitment to open communication, this policy offers an avenue for employees to raise concerns, and reassurance that they will be protected from reprisals or victimization for whistleblowing.

This whistleblowing policy is intended to encourage individuals to disclose wrongful conduct so that prompt, corrective action can be taken. It is also intended to provide protections for individuals who raise concerns regarding:

- incorrect financial reporting;
- unlawful activity;
- activities not in line with WST policy, including the Code of Conduct; or
- activities that otherwise amount to serious improper conduct.

Nothing in this policy is intended to interfere with legitimate employment decisions.

19.2 DEFINITIONS

A. Wrongful conduct – A serious violation of Workforce Solutions Texoma (WST) policy; a violation of applicable state and federal laws; or the use of WST property, resources, or authority for personal gain or other non-WST-related purpose except as provided under WST policy. Examples of such actions include, but are not limited to:

- discriminating against an employee or applicant based on race, color, religion, sex, national origin, age, disability, marital status, or political affiliation;
- taking or threatening to take action against an employee or applicant for:
 - exercising an appeal, complaint, or grievance right;
 - testifying for or assisting another in exercising such a right; or
 - refusing to obey an order that would require the individual to violate a law; or
- committing acts of fraud, waste, or abuse.

B. Protected disclosure – Communication about actual or suspected wrongful conduct engaged in by an employee, contractor, subcontractor, vendor, provider, or customer based on a good faith and reasonable belief that the conduct has both occurred and is wrongful under applicable law and/or WST policy.

C. Retaliation – Adverse action against an individual because she or he has made a protected disclosure or has participated in a fact-finding, proceeding or hearing involving a protected disclosure. This includes such actions as: termination, refusal to hire, denial of promotion, threats, and unjustified negative evaluations or referrals.

19.3 POLICIES

19.3.1 Anonymous Allegations

This policy encourages employees, contractor staff, and volunteers to put their names to allegations because appropriate follow-up questions and fact-finding may not be possible unless the source of the information is identified. Concerns expressed anonymously will be explored appropriately, but consideration will be given to:

- The seriousness of the issue raised;
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources.

19.3.2 Acting in Good Faith

Anyone making a protected disclosure or filing a complaint concerning a violation or suspected violation of this policy must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation of the policy.

19.3.3 False Allegation

Any employee who knowingly or with reckless disregard for the truth gives false information or knowingly makes a false report of wrongful conduct or a subsequent false report of retaliation will be subject to disciplinary action, up to and including termination. Allegations that are not substantiated and are made in good faith are not subject to corrective action.

19.3.4 Retaliation

Individuals who make a protected disclosure will not suffer harassment, retaliation, or adverse employment consequences. Any person who retaliates against any individual who makes a protected disclosure is subject to discipline up to and including termination. A contracting entity that retaliates against any individual who makes a protected disclosure is also subject to disciplinary action by WST. This Whistleblower Policy is intended to encourage and enable employees and others to raise serious concerns prior to seeking outside resolution.

19.3.5 Confidentiality

Protected disclosures may be made on a confidential basis by the complainant or may be submitted anonymously. Protected disclosures and research records will be kept confidential to the extent possible, consistent with the need to conduct adequate research, and in accordance with disclosure requirements relative to legal proceedings. See also the [Freedom of Information Act](#).

19.3.6 Reporting a Crime

Crimes against person or property, such as assault or burglary, should immediately be reported to local law enforcement personnel.

19.4 COVERED INDIVIDUALS

The law known as the "Whistleblower Act" prohibits retaliation against public employees who report official wrongdoing. The Act states that a "state or local governmental body may not suspend or terminate the employment of, or take other adverse personnel action against, a public employee who in good faith reports a violation of law by the employing governmental entity or another public employee to an appropriate law enforcement authority." (Texas Government code Ann. §554.002 (a) (Vernon 1999). The Whistleblower Act defines a public employee as "An employee or appointed officer other than an independent contractor who is paid to perform services for a state or local governmental entity."

In the spirit of this definition, WST paid employees and volunteer staff performing services for the WST or one of its contractors are covered by this policy. Independent contractor, such as those performing annual audits, do not fall within the definition of a "covered individual." This policy does not distinguish between probationary, non-probationary, temporary, or regular staff.

All managers and supervisors are responsible for observing and supporting this policy. All employment-related decisions made relating to compensation, promotion, demotion, transfer, work assignment, and performance evaluation, shall be made without regard to whether an employee has in good faith reported a violation of law under this policy.

Various federal and state laws provide protections for employees reporting wrongful conduct. For more information, click on the links below (note: Website links to each policy reference are provided at the end of this policy):.

- [Texas Whistleblower Act](#)
- [Federal Whistleblower and Retaliation Protection Guidance](#)
- [EEOC Protections Against Retaliation](#)

19.5 PROCEDURES

It is recommended that the complaint be presented to the lowest organization level where it can appropriately be addressed. Any company official who receives a whistleblowing complaint has the responsibility to report it to her/his immediate supervisor. Employment-related concerns should continue to be reported through normal channels to your supervisor and/or human resources representative, unless that person is named in the complaint.

Individuals who are aware of or have reason to suspect wrongful conduct should report the conduct to:

1. The disclosing individual's supervisor, either verbally or in writing; or
2. The WST EO Officer, either verbally or in writing, at 5904 Texoma Parkway, Sherman, Texas 75090; 903.957.7408; or
3. The Texas Workforce Commission Fraud Hotline at 1-800-252-3642, or TWC Civil Rights Division at 1-888-452-4778, as appropriate.

The action taken by WST in response to a report of concern under this policy will depend on the nature of the concern. Board staff will consult with the Texas Workforce Commission Office of Investigations as required, and will then follow up as appropriate.

Staff reporting concerns should expect some initial inquiries to determine whether fact-finding is appropriate, and the form it should take. Some concerns may be resolved without the need for fact-finding. The amount of contact between the complainant and the person or persons researching the concern will depend on the nature of the issue and the clarity of information. Subject to legal constraints, the complainant will receive information about the outcome of the fact-finding.

Although an employee is not expected to be able to prove the truth of an allegation, the complainant should be able to demonstrate that the report is being made in good faith, what was believed to be a violation of a federal or state law, a local government ordinance, or rule adopted under a law or an ordinance. Employees are encouraged to report concerns as soon as possible since early reporting makes it easier to take action.

19.6 RESPONSIBILITIES

19.6.1 Individual Staff Responsibilities

- A. Be knowledgeable about this policy.
- B. Report violations or suspected violations of the policy to the individual's direct supervisor or to one of the entities noted in Section 19.5 above.

19.6.2 Supervisory/Management Responsibilities

- A. Familiarize employees and volunteers with this policy and incorporate into personnel orientation materials.
- B. Maintain findings of wrongful conduct or false allegations in the individual's personnel file.

- C. Schedule training for leaders, supervisors and managers. Provide training or information on an ongoing basis for staff and volunteers.
- D. Provide information about this policy during New Employee Orientation and Human Resource Professional training.

19.6.3 Contractor Responsibilities

- A. Accept and research protected disclosures regarding employment matters.
- B. Accept and research complaints of retaliation for making protected disclosures.
- C. Provide and document training for managers and units about this policy.
- D. Provide information about this policy during New Employee Orientation and Human Resource Professional training.

References:

Texas Whistleblower Act, Texas Government Code §554.001,
http://www.tml.org/legal_pdf/2006Whistleblower.pdf

Whistleblower Brochure, rev 03.11,
https://www.oag.state.tx.us/AG_Publications/pdfs/whistleblower.pdf

Whistleblower Poster, rev 03.11,
https://www.oag.state.tx.us/AG_Publications/pdfs/whistleblower_poster.pdf

The Freedom of Information Act, 5 U.S.C. § 552, As Amended By Public Law No. 110-175, 121 Stat. 2524, <http://www.justice.gov/oip/amended-foia-redlined.pdf>

United States Department of Labor Whistleblower and Retaliation Protections, rev 09.09, <http://www.dol.gov/compliance/guide/whistle.htm>

U. S. Equal Employment Opportunity Commission – Facts About Retaliation,
<http://www.eeoc.gov/laws/types/facts-retal.cfm>