

LAKE COUNTY BOARD OF DD/DEEPWOOD

BOARD POLICY

Reviewed and Adopted by the Board:

Date: May 24, 2021

Signature on File

Elfriede Roman, Superintendent

I. SUBJECT: WHISTLE-BLOWER PROTECTION/CORPORATE COMPLIANCE

II. PURPOSE:

The Board is committed to conducting its operations in an ethical and legal fashion, and expects all employees of the Agency to carry out their duties in such a manner. In addition, the Board desires to create an environment wherein employees can report any violations of Board policy without fear of retaliation. To further those commitments, the Board has undertaken to adopt this compliance plan.

III. REFERENCES:

29 CFR Chapter XIV Equal Employment Opportunity Commission §1600-1699;
Deficit Reduction Act of 2005, Section 6032 (31 U.S.C. 3729-3733, False Claims Act);
O.R.C. §4112.02 Unlawful Discriminatory Practices;
O.R.C. Chapters 102 and 5126;
O.R.C. §124.341 and O.R.C. §4113.52; and
Board Policies A-34, B-5, B-10, B-19, B-24, and E-11.

IV. POLICY:

A. Overview

The Board is committed to an operating philosophy that maximizes the outcomes of the Board's mission statement, complies with all regulatory requirements governing our organization and encourages the highest level of ethical and legal conduct. To that end, we have developed the following compliance plan. All Board employees are encouraged to report any such activities which are in violation of Board Policy in accordance with the provisions herein. If all employees remain vigilant in noting, documenting and reporting such activities, they will be prevented and the Board will remain a workplace with the highest standard of integrity.

Board employees are expected to comply with all Board policies, including, but not limited to Policies: A-34 (Code of Ethics for Agency Staff); B-5 (Use of Agency Property); B-10 (Drug-Free Workplace); B-19 (Prohibition of Sexual Harassment and Other Unlawful Harassment or Discrimination; Reporting and Complaint Procedure); B-24 (Workplace Violence); and E-11 (False Claims Prevention and Whistleblower Protection). Any employee that encounters a situation believed to be unethical or in violation of Board policy should consult his/her supervisor or another member of management. If this is uncomfortable, or inappropriate for a given situation, the employee should contact the Board's compliance officer. *There shall be no retaliation for asking questions or raising good faith concerns about possible improper conduct.*

B. Definitions

(1) Privacy Violation: use or disclosure of individually identifiable health information in content or format other than that prescribed by Board policy and procedure.

(2) Retaliatory Action: includes, but is not limited to, removing or suspending employee from work; withholding salary increases or employee benefits to which employee is otherwise entitled; denying an employee a promotion that would otherwise have been received; transferring or reassigning an employee that otherwise would not have occurred; reducing the employee in pay or position.

(3) Appropriate ethics commission means the Ohio Ethics Commission.

C. Procedures

1. Reports to be made.

An employee of the Board who learns of the following shall make a report as required by this policy:

(a) a violation of local, state or federal statutes, including, but not limited to, Medicaid fraud per the Deficit Reduction Act of 2005, which the Board could correct, and the employee reasonably believes that the violation is a criminal offense that is likely to cause an imminent risk of physical harm to persons or a hazard to public health or safety, a felony, or an improper solicitation for a contribution;

(b) a violation by a fellow employee of any state or federal statute, any ordinance or regulation of a political subdivision, or any work rule or company policy of the Board, and the employee reasonably believes that the violation is a criminal offense that is likely to cause an imminent risk of physical harm to persons or a hazard to public health or safety, a felony, or an improper solicitation for a contribution;

(c) a violation of Ohio Revised Code Chapters 3704. (Air Pollution Control Act), 3734. (Solid and Hazardous Wastes Act), 6109. (Safe Drinking Water Act), or 6111. (Water Pollution Control) that is a criminal offense;

(d) a violation of state or federal statutes, rules, or regulations that is not a criminal offense, which his/her supervisor or the Superintendent could correct;

(e) the misuse of public resources, which his/her supervisor or the Superintendent could correct; or

(f) a violation of state or federal statutes, rules, or regulations or misuse of public resources that is also a violation of Ohio Revised Code Chapter 102., section 2921.42, or section 2921.43.

2. Reporting Procedures

(a) For reports to be made under **1. (a)** and **(b)** above, the employee orally shall notify the employee's supervisor, Department Director, or the Superintendent of the violation and subsequently shall file with the supervisor, Department Director, or the Superintendent a written report that provides sufficient detail to identify and describe the violation. The employee is to submit the written report in a timely manner (no later than the end of the next working day). Failure to report within 24 hours will not prohibit the Board from taking action. If the issue to be reported falls within the definition of MUI/UI reporting, the employee must follow those guidelines set forth in Ohio law and Board policy.

(b) For reports made under **1. (d)** and **(e)** above, the employee shall file a written report identifying the violation or misuse with the employee's supervisor, Department Director, or the Superintendent. In addition to or instead of filing a written report with the employee's supervisor, Department Director, or the Superintendent, the employee may file a complaint with the Auditor of State's fraud-reporting system under Ohio Revised Code Section 117.103. **The Auditor of the State has an established fraud reporting-system to be used for reporting fraud, including misuse of public money by any public official or office. Employees are able to make anonymous complaints via the fraud hotline (866-372-8364), the Auditor of the State's website (www.ohioauditor.gov) or through the United States mail (Special Investigations Unit, 88 East Broad Street, Columbus, OH 45215).** Moreover, if the employee believes the violation or misuse is a criminal offense, in addition to or instead of filing a report with the employee's supervisor, Department Director, or the Superintendent, the employee may report it to the Lake County Prosecuting Attorney or a peace officer, such as the Lake County Sheriff or a municipal police officer.

(c) For reports made under **1. (c)** above, the employee directly may notify, either orally or in writing, any appropriate public official or agency that has regulatory authority over the Board.

(d) For reports made under **1. (f)** above, in addition to filing a report with the employee's supervisor, Department Director, or the Superintendent, the employee may report the violation or misuse to the appropriate ethics commission.

(e) Supervisory staff receiving initial reports (oral or in writing) are to immediately relay this information to the Superintendent/designee. If the issue involves a privacy violation under HIPAA, the Privacy Officer shall also be notified by the supervisory staff receiving the initial report. Reports of Medicaid fraud shall also be reported to the Superintendent/designee by the supervisory staff receiving the initial report. The Superintendent will inform the Board President of the allegation and begin an investigation into the matter. Should the matter appear to be criminal in nature, the appropriate authorities shall be informed.

3. Employee Responsibilities

It is the employee's responsibility to make a reasonable and good faith effort to accurately report the alleged impropriety to the appropriate authority. There are consequences for purposely, knowingly or recklessly reporting false information. Those consequences may include discipline, up to and including termination. Failure to report may also result in disciplinary action, up to and including termination, subject to due process.

Reports made in good faith are encouraged and expected. A false complaint is not the same as an unsubstantiated complaint. ***Employees who file reports in good faith shall not be subject to retaliatory action from supervisors or co-workers. If retaliation occurs, the employee should immediately notify the Superintendent/designee.***

4. Board Responsibilities

(a) After an employee submits a report, the Superintendent/designee is to notify the employee, in writing, of any effort the Board has taken to correct the alleged violation, hazard, or misuse, or the absence of the alleged violation, hazard, or misuse. The Board is to notify the reporting employee of its efforts/findings within 24 hours after the oral notification was made or the report was received, or by 4:30 p.m. on the next regular business day (Monday-Friday) following the day on which the oral notification was made or the report was received, whichever is later.

(b) If the Superintendent does not correct the violation or make a reasonable and good faith effort to correct the violation within twenty-four (24) hours after the oral notification or the receipt of the report, whichever is earlier, the employee may file a written report that provides sufficient detail to identify and describe the violation with the Lake County Prosecuting Attorney, a peace officer, such as the Lake County Sheriff or a municipal police officer, or any appropriate public official or agency that has regulatory authority over the Board.

(c) Neither the Board nor any employee of the Board shall take any disciplinary or retaliatory action against an employee for making any report under this procedure or as a result of the employee having made any inquiry or taken any other action to ensure the accuracy of any information reported under this procedure.

5. Employee Appeal Rights

If the Board takes any alleged disciplinary or retaliatory action against an employee as a result of the employee's having filed a report under this policy, the employee's sole and exclusive remedy, notwithstanding any other provision of law, is to file an appeal with the State Personnel Board of Review within thirty (30) days after receiving actual notice of the disciplinary or retaliatory action.

For employees covered by a collective bargaining agreement, their rights to appeal any alleged disciplinary or retaliatory action are contained therein.

6. Effect of Policy

This procedure does not supersede any rights of any employee under a collective bargaining agreement or permit disclosures that would diminish or impair the rights of any person to the continued protection of confidentiality of communications, if a statute or common law provides such protection.

D. Non Employment of Sanctioned Entities

Contracts will be terminated with individuals or agencies that no longer meet certification or licensure standards as mandated by applicable federal and state laws.

V. DISTRIBUTION:

All Board Members
All Management Staff
All Staff (via Department Managers)
LEADD President

VI. REVIEWED:

05/21, 05/19, 05/18, 05/17, 05/16, 05/15, 05/13, 04/12, 04/10, 04/08