

Buffalo & Erie County Public Library

PERSONNEL POLICIES AND PROCEDURES MANUAL

SUBJECT: Whistleblower Policy

CHAPTER: VIII

SECTION: 10

EFFECTIVE DATE: 6/12/14

REVISION DATE: 4/21/16, 5/16/19, 9/17/20, 5/19/22

This policy is for application to those libraries within the City of Buffalo (Central Library and Buffalo Branch Libraries) and Buffalo & Erie County Public Library System functions.

STATEMENT OF POLICY

The Buffalo & Erie County Public Library is committed to upholding the highest standards of ethical, moral and legal business conduct and transparency through open communication. Accordingly, all trustees, officers, employees and volunteers are required to comply with applicable federal, state and local laws, and must faithfully implement and adhere to the Buffalo & Erie County Public Library's own policies and procedures in conducting their duties and responsibilities.

This policy provides an avenue for all trustees, officers, employees, former employees, independent contractors and volunteers to report any suspected or actual conduct contrary to these standards without the fear of intimidation, harassment, discrimination or retaliation.

ARTICLE I

Reporting Responsibility

Section 1.1. Duty to Report. It shall be the Buffalo & Erie County Public Library's policy that all trustees, officers, employees, former employees, independent contractors and volunteers of the Buffalo & Erie County Public Library have a responsibility to report known or suspected violations in accordance with this Whistleblower Policy. This includes reporting any action or suspected action taken by or within the Buffalo & Erie County Public Library that is illegal, fraudulent or in violation of any policy of the Buffalo & Erie County Public Library, which the reporter has either actual knowledge of or has a reasonable good faith belief that same occurred. Suspected or actual wrongful action(s) regarding Buffalo & Erie County Public Library finances and governance, include but are not limited to the following:

- (A) Incorrect financial reporting;
- (B) Unlawful activity;
- (C) Activities that are inconsistent with Buffalo & Erie County Public Library policies; and
- (D) Activities which otherwise amount to serious improper conduct.

ARTICLE II

Procedure

Section 2.1. Oversight. The Governance Committee of the Board comprised solely of Independent Trustees, as defined in the Bylaws, shall oversee the adoption, implementation of, and compliance with this Whistleblower Policy.

Section 2.2. Compliance Officer. The Compliance Officer shall be the Chair of the Governance Committee. Should the Compliance Officer be the subject of the report, then the Governance Committee shall appoint another member of the Committee to perform

the Compliance Officer's role regarding the allegations. The Compliance Officer shall be responsible for administering the Whistleblower Policy, overseeing an investigation, and reporting to the Governance Committee. The Compliance Officer shall report to the Board at least annually on compliance activity.

Notwithstanding anything to the contrary in this Policy, trustees who are employees of the Buffalo & Erie County Public Library may not participate in any Board or Committee deliberations or voting relating to administration of this Whistleblower Policy.

Section 2.3. Reporting Violations. All reports should be made using the *Whistleblower Reporting Form*, attached as Appendix A, which will be available on the Buffalo & Erie County Public Library website and Intranet. Trustees, officers, employees, former employees, independent contractors and volunteers should promptly report alleged violations to the Compliance Officer. If reporter deems it inappropriate to file the report with the Compliance Officer, the report may be submitted to the Chair or Vice-Chair of the Buffalo & Erie County Public Library Board of Trustees. Any such reports received by the Chair or Vice-Chair of the Buffalo & Erie County Public Library Board of Trustees, or designee, including the completed *Whistleblower Reporting Form* shall be forwarded to the Governance Committee, subject to the restrictions of Section 2.2.

Section 2.4. Email Reporting. As an alternative to the reporting procedure specified in Section 2.3, trustees, officers, employees, former employees, independent contractors and volunteers may submit the *Whistleblower Reporting Form* via email to whistleblower@buffalolib.org. Submissions to said email account will be reviewed by the Governance Committee of the Buffalo & Erie County Public Library Board of Trustees at its monthly meeting.

Section 2.5. Anonymous Reporting. With the exception of a person's report of his or her own violation, the reporter shall not be required to provide his or her name on said form. However, anonymous reports must include sufficient information, including but not limited to, the name of the person against whom the report is being made, the date of the incident, and a description of the incident, in order that an investigation can be conducted.

Section 2.6. Handling Reports.

(A) The Governance Committee shall provide the reporter a timely acknowledgement of receipt of the report, whether submitted in person, electronically, or otherwise. All reports submitted will be placed on the agenda for the next scheduled meeting of the Governance Committee of the Buffalo & Erie County Public Library Board of Trustees. An appropriate investigation will be undertaken by the Governance Committee, or legal counsel or other designee if deemed appropriate by the Governance Committee. A report summarizing the findings will be given to the reporter within 10 business days of the Governance Committee's meeting, if a name is provided on the *Whistleblower Reporting Form*. If more than 10 business days from the date of the Governance Committee's meeting are needed to complete a thorough investigation, the reporter will be notified in writing of an estimated date when the investigation will be completed.

(B) The person who is the subject of a whistleblower complaint shall not be present at or participate in any Board or Committee deliberations or vote on the matter relating to such complaint, provided that nothing in this subparagraph shall prohibit the Board or Committee from requesting that the person who is subject to the complaint present information as background or answer questions at a Committee or Board meeting prior to the commencement of deliberations or voting relating thereto.

Section 2.7. Results of Investigation. If the investigation establishes that a violation of law, external regulation or Buffalo & Erie County Public Library policy has occurred, then the Governance Committee shall determine the appropriate action based upon law and Buffalo & Erie County Public Library policy and make a recommendation to the Board. Civil or criminal prosecution will be pursued when warranted. If the investigation establishes that no violation of law, external regulation or Buffalo & Erie County Public Library policy has occurred, then the Governance Committee shall report to the Board its findings and determination. The investigation is closed when the Compliance Officer has deemed the investigation is complete and the Governance Committee has approved a recommendation for a resolution and/or corrective action to the Board.

Section 2.8. Documentation. The Compliance Officer shall document the investigation and explain the rationale for any recommended resolution and/or corrective action. All documentation relating to the investigation, including the *Whistleblower Reporting Form*, and the resolution and/or corrective action taken shall remain in the Buffalo & Erie County Public Library's records in the Human Resources Department and/or Governance Committee records for at least five years.

Section 2.9. Confidentiality. All violations or suspected violations may be submitted on a confidential or anonymous basis. Reports will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation and prevent or correct suspected action(s). The Compliance Officer shall disclose information relating to a report with those who have a need to know so that the Governance Committee can conduct an effective investigation and determine what action to take based on the results of any such investigation. In appropriate cases, the investigation documents will be shared with law enforcement personnel. Disclosure of reports to individuals not involved in the investigation shall be viewed as a serious disciplinary

offense and may result in discipline, up to and including dismissal, termination or civil lawsuits.

Section 2.10. Protection against Retaliation. Any Buffalo & Erie County Public Library trustee, officer, employee, former employee, independent contractor or volunteer who reports a suspected or actual violation(s) in accordance with this policy shall not suffer intimidation, harassment, discrimination or other retaliation including adverse employment action or threats to take such adverse employment action, actions or threats of such actions that would adversely impact current or future employment, or threatening to contact or contacting United States immigration authorities or otherwise reporting or threatening to report suspected citizenship or immigration status or the suspected citizenship or immigration status of a family or household member to a federal, state, or local agency.

ARTICLE III

Regulations

Section 3.1. Discipline for Retaliatory Conduct. Retaliation is a serious violation of this policy and should be reported immediately to the Chair of the Governance Committee of the Buffalo & Erie County Public Library Board of Trustees. Depending on the nature and seriousness of the offense, the Buffalo & Erie County Public Library will impose appropriate discipline against any trustee, officer or employee found to have engaged in any form of retaliatory conduct against an individual reporting suspected or actual wrongful action(s) in accordance with this policy, up to and including dismissal or termination, and referral to the New York State Board of Regents for possible removal of a Trustee, pursuant to New York State Education Law Section 226. Former employees, independent contractors and volunteers that engage in any such conduct will not be permitted to engage in Buffalo & Erie County Public Library activities.

Section 3.2. Good Faith Reporting. Any Buffalo & Erie County Public Library trustee, officer, employee, former employee, independent contractor or volunteer who files a report concerning a violation or suspected violation must do so in good faith and have reasonable grounds for believing the information in the report indicates a violation under this policy. The Buffalo & Erie County Public Library will impose appropriate discipline against any trustee, officer or employee found to have knowingly made a report/complaint in bad faith, up to and including dismissal or termination, and referral to the New York State Board of Regents for possible removal of a Trustee, pursuant to New York State Education Law section 226. This includes, but is not limited to, giving false information or making a report in retaliation. Former employees, independent contractors or volunteers that engage in any such conduct will not be permitted to engage in Buffalo & Erie County Public Library activities.

ARTICLE IV

Applicability and Distribution of Policy

This policy shall apply to all trustees, officers, employees, former employees, independent contractors and volunteers of the Buffalo & Erie County Public Library. A copy of this Whistleblower Policy shall be made available to all trustees, officers, employees and independent contractors and to volunteers who provide substantial services to the Buffalo & Erie County Public Library via the Buffalo & Erie County Public Library's website or at the Buffalo & Erie County Public Library's office in a conspicuous location accessible to employees and volunteers.

Adopted by Buffalo & Erie County Public Library Board of Trustees at a public meeting June 12, 2014. Amended April 21, 2016. Amended May 16, 2019. Amended September 17, 2020. Amended May 19, 2022.