



Whistleblower Protection

(HC47)

POLICY STATEMENT

The New Orleans Regional Transit Authority (RTA) is committed to high standards of ethical, moral and legal professional conduct.

PURPOSE

The agency expects its employees to observe high standards of professional and personal ethics in the conduct of their duties and responsibilities.

APPLICATION

This policy applies to all RTA Board Commissioners, employees, vendors, contractors and visitors while on RTA property, or when performing business with, or providing service for RTA. If a conflict occurs between this policy and a Collective Bargaining Agreement (CBA), the CBA prevails.

ADOPTED BY:

The RTA Board of Commissioners on XX/XX/XXXX, Resolution XX-XXX

APPROVED BY:

Alex Z. Wiggins
Chief Executive Officer

Effective Date: X/XX/XXXX
Date of Last Review: X/XX/XXXX

1.0 GENERAL

Louisiana law protects public employees who report information which they reasonably believe a violation, or any provision of law, or any other acts of impropriety related to the scope or duties of public employment, to their agency heads, the Louisiana Board of Ethics, or any person or entity of competent authority or jurisdiction. Any public employee who reports a potential violation shall be free from discipline or reprisal for their employer. This law (R.S. 42:1169) is enforced by the Louisiana Board of Ethics. A public employee who is wrongfully suspended, demoted, or dismissed due to reporting of any act of wrongdoing shall be entitled to reinstatement of his employment, as well as the receipt of any loss of income or benefits. A person who is a public employee because of a contractual arrangement with a governmental entity or agency, whose contract is wrongfully suspended, reduced, or terminated as an act of reprisal for reporting an alleged act of impropriety, shall be entitled to reinstatement of his contract and receipt or any lost compensation under the terms of the contract.

2.0 PROCEDURES

2.1 Reporting Misconduct

The agency encourages its employees to share their questions, concerns, suggestions, or complaints with someone who can address them properly. All reports of illegal and dishonest activities will be promptly submitted to the Chief Human Resources Officer who is responsible for investigating and coordinating corrective action.

An employee may make a complaint to their supervisor or directly to the Chief Human Resources Officer. The complaint can initially be verbal or in writing. All details of the incident or incidents, names of individuals involved, including the names of any witnesses, must be provided. The individual making the complaint must certify by signature that the information provided contains true facts, or information that the individual believes to be true. The complaint should be filed as soon as possible but no later than thirty (30) days after either the alleged act of retaliation, or the date that the individual first becomes aware of the alleged retaliation.

Information regarding the complaint will be disclosed to the charged party and will be kept confidential from other employees unless: 1) the information needs to be disclosed during the investigation; or 2) is required to be disclosed by federal and/or state law. All employees who participate in the investigation will be directed not to share any information regarding the investigation with others.

Note: The employee may also file a complaint with the appropriate state or federal agencies. Neither reporting nor investigation under this policy delays the deadline for filing with other agencies.

An experienced, neutral outside investigator should be brought in when:

- **Allegations involve as either complaining party or target of the investigation a member of the HR Department or upper management (supervisor, director, deputy director, deputy chief, chief executive officer or a member of the board).**
- **Accusations have been made public or widely known within the agency.**
- **The situation is highly confidential or sensitive.**
- **There are allegations of criminal behavior and cooperation with law enforcement is necessary.**
- **There are reasons to question whether the in-house team is sufficiently experienced or will be viewed as unbiased and objective.**

3.0 DEFINITIONS

(A) **A whistleblower** as defined by this policy is an employee of the RTA who reports an activity that they consider to be illegal or dishonest to one or more of the parties specified in this Policy. The whistleblower is not responsible for investigating the activity or for determining fault or corrective measures; appropriate management officials are charged with these responsibilities.

(B) **Misconduct** “Misconduct” is defined in this Whistleblower Policy as any activity by an Agency Board member, Officer, Director, Supervisor, employee, consultant or contractor that jeopardizes the safety of passengers or employees, violates a state or federal law or regulation or involves corruption, fraud, bribery, theft or misuse of agency property, gross incompetence, or otherwise violates any applicable Agency Code of Conduct or policy.

(C) **No Retaliation** This Whistleblower Policy is intended to encourage and enable employees and others to raise serious concerns within the agency before seeking resolution outside the agency.

Accordingly, no Director, officer or employee who in good faith reports suspected Misconduct under this Whistleblower Policy or who cooperates in the investigation of Misconduct shall suffer harassment, retaliation or adverse employment consequence as a result of making such a report or cooperating in an investigation. An employee who retaliates against someone who has reported Misconduct in good faith or who has



cooperated in the investigation of Misconduct is subject to discipline, up to and including termination of employment.

(D) **Reporting Misconduct** the agency encourages its Directors, officers and employees to share their questions, concerns, suggestions, or complaints with someone who can address them properly. In most cases, an employee's supervisor is in the best position to address areas of concern. However, if an employee is not comfortable speaking with his or her supervisor or is not satisfied with the supervisor's response, the employee is encouraged to contact the Chief Human Resources Officer. Supervisors and Managers are required to report alleged violations of law to the Chief Human Resources Officer.

(E) **Acting in Good Faith** Anyone who reports Misconduct must be acting in good faith and have reasonable grounds for alleging the Misconduct. Any allegations that prove not to be substantiated and which were known to be false when made or were made with willful disregard for their truth or falsity will be viewed as a serious disciplinary offense.

(F) **Confidentiality Reports** of Misconduct or suspected Misconduct may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of Misconduct or suspected Misconduct will be kept confidential to the extent possible and to the extent permitted by law. Reports of Misconduct or suspected Misconduct will be shared with other individuals, including individuals outside the agency, as necessary to conduct an adequate investigation.

(G) **Anonymous Allegations** This Whistleblower Policy encourages individuals to put their names to allegations of Misconduct because appropriate follow-up questions and investigation may not be possible unless the source of the information is identified. Concerns expressed anonymously will be looked into 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.

(H) **Handling of Reported Misconduct** The employee's supervisor or other agency representative will acknowledge receipt of the reported Misconduct within five business days, unless the report was submitted anonymously. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation. The Chief Human Resources Officer may employ the services of an independent investigator in cases where the alleged Misconduct involves an expenditure or loss to the agency in excess of \$250,000 creates a significant exposure to liability to the Agency or in other special circumstances that justify independent investigation.

Examples of illegal or dishonest activities are violations of federal, state or local laws; billing for services not performed or for goods not delivered; and other fraudulent financial reporting.

If an employee has knowledge of or a concern of illegal or dishonest fraudulent activity, the employee is to contact their immediate supervisor or the Chief Human Resources Officer. The employee must exercise sound judgment to avoid baseless allegations. **An employee who intentionally files a false report of wrongdoing will be subject to discipline up to and including termination.**

Whistleblower protections are provided in two important areas -- confidentiality and against retaliation. Insofar as possible, the confidentiality of the whistleblower will be maintained. However, identity may have to be disclosed to conduct a thorough investigation, to comply with the law and to provide accused individuals their legal rights of defense. The Agency will not retaliate against a whistleblower. This includes, but is not limited to, protection from retaliation in the form of an adverse employment action such as termination, compensation decreases, or poor work assignments and threats of physical harm. Any whistleblower who believes they are being retaliated against must contact the Chief Human Resources Officer immediately. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.

Defend Trade Secrets Act (DTSA) Compliance: "Immunity from Liability for Confidential Disclosure of a Trade Secret to the Government or in a Court Filing:

- 1) Immunity—An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that—(A) is made—(i) in confidence to a federal, state or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.
- 2) Use of Trade Secret Information in Anti-Retaliation Lawsuit—An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual—(A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order."

4.0 RESPONSIBILITIES

A. Human Capital

Human Capital will:

- Administer the complaint procedure, authorizing and/ or conducting an investigation and recommend disciplinary action depending upon the severity of the offense.
- Immediately undertake an effective, discrete, thorough and objective investigation of the allegations. Each complaint will be investigated to the extent deemed appropriate. The investigation may include interviews with the reporting individual, the accused, and any other person having relevant knowledge concerning the allegations.
- Notify those with a need-to-know the general conclusion(s) of the investigation and will take appropriate action.
- Follow up with employees who have filed a complaint to ensure they are not retaliated against.

B. Managers and Supervisors

Department managers and supervisors are responsible for encouraging and modeling respect and fair treatment of all employees. Managers and supervisors should:

- Immediately report suspected retaliation to the Human Capital department.
- Follow up with employees who have filed a complaint to ensure they are not retaliated against.

C. All Employees

RTA employees are responsible for:

- Reporting acts of retaliation in a timely manner.
- Keeping submitted reports of misconduct or any other allegations under investigation confidential.
- Complying with the guidelines established in this policy.
- Reviewing and adhering to any updates of this policy.

5.0 FLOWCHART

N/A

6.0 REFERENCES



Regional Transit Authority

- Ethics (HC27)
- Whistleblower Protection for public employees – LSA-R.S. 42:1169

7.0 ATTACHMENTS

N/A

8.0 PROCEDURE HISTORY

12/15/2020 Interim Board approval granted
12/11/2020 Interim Executive Committee approval granted
2/4/2021 Final Executive Committee approval granted
2/23/2021 Final Board approval granted

9.0 SPONSOR DEPARTMENT

Human Capital