

## **Gateway Hudson Valley Policy & Procedures**

**Department:** Compliance

**Title:** **Whistleblower Policy**

**Purpose:** Gateway Hudson Valley requires its officers, directors, employees and consultants to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of the Agency, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations.

**Policy:** It is the policy of Gateway Hudson Valley to encourage and enable employees and others to raise/report compliance concerns so that Gateway may be able to address and correct any inappropriate conduct or actions. It is also the policy to protect staff/others from retaliation for good faith reporting of these concerns. Gateway follows all applicable laws regarding whistleblower protections including NYS Labor Law Section 720 regarding Whistleblower Law.

**Note:** This policy is not a vehicle for reporting violations of the Agency's applicable human resources policies, problems with co-workers or management, or for reporting issues related to alleged employment discrimination or sexual or any other form of unlawful harassment, all of which should be dealt with in accordance with the respective policies in the Employee Handbook and Harassment/Sexual Harassment Policy

### **Definitions:**

Whistleblower- An employee, board member or other member of Gateway Hudson Valley who reports an activity that he/she considers to be illegal or dishonest, which may include suspected fraud, theft, embezzlement, accounting or auditing irregularities, bribery, kickbacks, misuse of Agency assets or suspected regulatory, compliance, or ethics-related issues, concerns or violations. The whistleblower is not responsible for investigating the activity or for determining fault or corrective measures; appropriate management officials are charged with these responsibilities.

### **Procedure:**

It is the responsibility of all officers, directors, employees & consultants to make a good faith effort to report violations or suspected violations of high business and personal ethical standards and/or applicable legal requirements (violations) in accordance with this Whistle Blower Policy.

### ***Confidentiality and Retaliation***

- Insofar as possible, the confidentiality of the employee who has reported the violation will be maintained. However, identity may have to be disclosed to

conduct a thorough investigation, to comply with the law and to provide those accused with due process.

- No director, officer, current or former employee, Independent Contractors or consultant who in good faith reports a violation shall suffer harassment, retaliation, intimidation or adverse employment consequences (current or future).
- An employee who retaliates against someone who has reported a violation in good faith will be subject to discipline up to and including termination of employment.
- This Whistle Blower Policy is intended to encourage and enable employees and others to raise serious concerns within the Agency prior to seeking resolution outside the Agency.

### ***Reporting Violations***

- Questions, concerns, suggestions or complaints regarding the ethical and legal standards noted above should be addressed directly to the Chief Quality & Compliance Officer or reported to the Compliance Hotline at 845-339-6624.

### ***Accounting and Auditing Matters***

- The Audit Committee shall address all reported concerns regarding corporate accounting practices, internal controls or auditing brought to its attention. The Chair of the Audit Committee shall immediately notify the Audit Committee of any such complaint and work with the Committee until the matter is resolved.

### ***Acting in Good Faith***

- Anyone filing a complaint concerning a violation or suspected violation of the ethical and legal standards noted above must act in good faith and reasonably believe the information disclosed may indicate a violation of such standards or poses a substantial and specific danger to the public health or safety. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will result in discipline, up to and including termination of employment.

### ***Chief Quality & Compliance Officer (CQCO)***


- The Chief Quality and Compliance Officer (CQCO) is responsible for investigating and resolving all reported complaints and allegations concerning the ethical and legal standards noted above and shall advise the Board Quality & Compliance Committee, and, if the Chair deems it appropriate, the Chief Executive Officer, of all such complaints and allegations.
- The CQCO is required to report to the full Board of Directors at least annually regarding such complaints and allegations.

### ***Handling of Reported Violations***

- The CQCO will notify the sender (when identity is known) and acknowledge receipt of the reported violation or suspected violation within five business days. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.

- The CQCO will be responsible for coordinating all reported complaints and allegations and shall advise all appropriate Agency staff members which may include officers, Human Resources and Board of Directors regarding such complaints and allegations.
- The employee must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing will be subject to disciplinary action up to and including termination of employment.

**The CQCO for Gateway Hudson Valley, Courtney Beaupre, can be reached at One Amy Kay Parkway, Kingston, NY 12401, or 845-331-1261 Extension 227. In addition, the CQCO can be reached on the Corporate Compliance Hotline at 845-339-6624.**



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Stephanie Turco, President and CEO

1/11/2022

Date

Effective Date: BOD approved 05/22/2008  
Review Date: 03/10, 07/12, 07/13, 01/14  
Revision Date: 03/10, 07/12, 01/14, 12/21

# ***New York Significantly Expands Employee Whistleblower Protections***

November 8, 2021

By: [Peter H. Wiltenburg](#)

On Oct. 28, 2021, Gov. Hochul signed legislation that significantly expands the scope of New York Labor Law Section 740 (NYLL 740), the state’s “whistleblower” protection law covering all private sector employees. Most notably, beginning in January 2022, employees and independent contractors will be protected for reporting employer activity that they reasonably believe violates *any* law, regardless of whether the law relates to public safety or whether the activity was an actual violation.

## **Background**

In general, employee whistleblower protection laws like NYLL 740 prohibit employers from retaliating against employees who disclose illegal or improper actions by the employer. Prior to this amendment, NYLL 740 was relatively narrow. It protected only those employees who disclosed employer activity that violated a law relating to public health and safety or healthcare fraud. This means that an employee who disclosed any other form of unlawful activity — such as consumer fraud or tax evasion, for example — had no protection from retaliation under NYLL 740. The existing law did not cover independent contractors. Courts also had held that NYLL 740 required proof of an actual violation of law in order for the employee to sustain a cause of action.

## **Coming Changes to NYLL 740**

The most significant changes are that independent contractors will be covered by the law and that employees will be protected if they disclose activity that they reasonably believe violates *any* law — regardless of whether

that law relates to public health and safety. Below is a summary of those and other changes:

- More workers are covered: the definition of “employee” will include former employees and independent contractors.
- More governmental actions are “laws”: Executive orders and judicial or administrative decisions, rulings and orders will be within the definition of “law, rule, or regulation.”
- More employer actions are considered “retaliatory”: the revised law clarifies that for employer actions to be “retaliatory,” they need not be “personnel” actions, likely because former employees and independent contractors are now covered. In addition to actions that would commonly be understood to constitute retaliation, such as actual or threatened termination, suspension or demotion, employers may not (1) take action that would harm a former employee’s current or future employment, such as “blackballing” within an industry; or (2) report or threaten to report the immigration status of the employee or the employee’s family member.
- The scope of protected activity is significant broadened: employees will be protected if they disclose or threaten to disclose to a supervisor or public body an activity, policy or practice that the employee *reasonably believes* (1) violates a law, rule or regulation; or (2) poses a substantial and specific danger to public health and safety. In the case of the former, the employee will not have to establish that the employer actually violated a law; the employee’s reasonable belief is enough. Employees will also be protected for disclosing an employer activity that presents a danger to public safety, even if that activity is not unlawful.
- One protection for employers remains, but is watered down by exceptions: under the existing law, employees must first notify their employer of the alleged violation before reporting it to a public body. Under the revised law, an employee will only have to make a “good faith effort” to notify the employer, and that’s only if no exception applies. The employee will not have to make a good faith effort to notify the employer if the employee reasonably believes that there is: imminent danger to public safety; if the employee reasonably suspects that the employer will destroy evidence; if the employee reasonably believes physical harm would result; or if the employee reasonably believes the employer is already aware of the activity and will not correct it. In practice, these exceptions will likely remove the employee notice requirement in most cases.

- The statute of limitations is increased to two years: this adds a year for employees to file lawsuits. The parties are also entitled to a jury trial.
- Punitive damages and other new relief will be available: employers can be liable for punitive damages if the violation was willful, malicious or wanton. Front pay will be available to employees. Employers can also be assessed a civil penalty up to \$10,000.
- Notice requirements: employers will be required to post notice of employees' rights under the law in conspicuous places customarily frequented by employees and applicants for employment.

These changes to the law will become effective on Jan. 26, 2022.

### **Impact**

New York will now be among the states providing the broadest protection to workplace whistleblowers. Other states with similar laws, such as New Jersey, have seen a significant rise in related litigation. New York employers can likely expect the same. Several of the recent revisions, such as including “executive orders” in the definition of “law,” appear to have been in response to developments during the COVID-19 pandemic. The ongoing pandemic and related rules from various levels of government will likely present many opportunities for protected activity under the law. New York employers should prepare for the possibility of additional claims by reviewing and ensuring compliance with all applicable rules and regulations, health and safety practices, particularly related to the pandemic, confirm that they have a robust internal reporting structure to handle employee claims of non-compliance and malfeasance, and educate their managers and supervisors about these new legal requirements.

If you have any questions about the information presented in this memo, please contact [Peter Wiltenburg](#), any attorney in our [Labor and Employment practice](#) or the attorney at the firm with whom you are regularly in contact.