

NYSERDA
WHISTLEBLOWER POLICY
April 2019

PURPOSE

It is the policy of NYSERDA to afford certain protections to individuals who, in good faith, report violations of NYSERDA's Code of Conduct or other instances of potential wrongdoing within NYSERDA. The Whistleblower Policy and Procedures set forth below are intended to encourage and enable employees to raise concerns in good faith within NYSERDA and without fear of retaliation or adverse employment action.

DEFINITIONS

Good Faith: Information concerning potential wrongdoing is disclosed in "good faith" when the individual making the disclosure reasonably believes such information to be true and reasonably believes that the information constitutes potential wrongdoing.

NYSERDA Employee: All NYSERDA board members, officers, and staff whether full-time, part-time, employed pursuant to contract, employees on probation, and temporary employees.

Personnel action: Any action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement, or evaluation of performance.

Whistleblower: Any NYSERDA Employee who in good faith discloses information concerning wrongdoing by another NYSERDA Employee, or wrongdoing concerning the business of NYSERDA itself.

Wrongdoing: Any alleged corruption, fraud, criminal or unethical activity, misconduct, waste, conflict of interest, intentional reporting of false or misleading information, or abuse of authority engaged in by a NYSERDA Employee that relates to NYSERDA.

SECTION I: REPORTING WRONGDOING

All NYSERDA Employees who discover or have knowledge of potential Wrongdoing concerning board members, officers, or employees of NYSERDA; or a person having business dealings with NYSERDA; or concerning NYSERDA itself, shall report such activity in accordance with the following procedures:

- a) All NYSERDA Employees who discover or have knowledge of Wrongdoing shall report such Wrongdoing in a prompt and timely manner.
- b) The NYSERDA Employee shall disclose any information concerning Wrongdoing either orally or in a written report to his or her supervisor, or to the Director of Internal Audit, an Officer, any member of Counsel's Office, an independent Fraud and Abuse Hotline service available to NYSERDA employees, the Ethics Officer, or a representative from human resources.
- c) The identity of the whistleblower and the substance of his or her allegations will be kept confidential to the maximum extent possible.

d) Upon receipt of an allegation of Wrongdoing, the individual to whom the potential Wrongdoing is reported shall notify the General Counsel, and the General Counsel shall determine who will conduct the investigation. All claims or reporting of Wrongdoing will be thoroughly investigated by NYSERDA under the direction and supervision of the Office of the General Counsel, unless the General Counsel refers the investigation to the Office of the Inspector General, Authorities Budget Office or other outside authority to investigate. Once the investigation is complete, the General Counsel or the individual who conducted the investigation shall provide to the President and CEO and the Director of Internal Audit a summary report, which shall include the findings of the investigation and a recommendation for resolving the matter. The Director of Internal Audit shall advise the Audit and Finance Committee at its next regularly scheduled meeting of any material or significant weaknesses or deviations identified in such report. Should the findings of such investigation(s) reveal substantiated claims of Wrongdoing, NYSERDA shall take appropriate action, which may include referral to the Inspector General's Office, referral to the Members for recommended action requiring Member approval, or referral to NYSERDA's President and CEO for recommended disciplinary or administrative action.

e) The individual to whom the potential Wrongdoing is reported may refer such information to the Authorities Budget Office or an appropriate law enforcement agency where applicable.

f) Allegations of corruption, fraud, criminal activity, conflicts of interest or abuse by a NYSERDA Employee or any persons having business dealings with NYSERDA must be reported to the State Inspector General.

g) All NYSERDA Employees shall cooperate fully with internal investigations and investigations by the State Inspector General pertaining to NYSERDA operations.

h) All reports and draft reports delivered to NYSERDA by the State Inspector General shall be reviewed by the Audit and Finance Committee, which shall serve as the point of contact on such reports.

i) Should a NYSERDA Employee believe in good faith that disclosing information within NYSERDA pursuant to Section 1(a) above would likely subject him or her to adverse personnel action or be wholly ineffective, the NYSERDA Employee may instead disclose the information to the Authorities Budget Office or an appropriate law enforcement agency, if applicable. The Authorities Budget Office's toll free number (1-800-560-1770) should be used in such circumstances.

SECTION II: NO RETALIATION OR INTERFERENCE

No NYSERDA Employee shall retaliate against any Whistleblower for the disclosure of potential Wrongdoing, whether through threat, coercion, or abuse of authority; and, no NYSERDA Employee shall interfere with the right of any other NYSERDA Employee by any improper means aimed at deterring disclosure of potential Wrongdoing. Any attempts at retaliation or interference are strictly prohibited. In addition:

a) No NYSERDA Employee who in good faith discloses potential violations of the NYSERDA Code of Conduct or other instances of potential Wrongdoing, shall suffer harassment, retaliation or adverse personnel action as a result of such disclosure.

b) All allegations of retaliation against a Whistleblower or interference with an individual seeking to disclose potential Wrongdoing shall be thoroughly investigated by NYSERDA.

c) Any NYSERDA Employee who retaliates against or attempts to interfere with any individual for disclosing or attempting to disclose potential violations of the NYSERDA Code of Conduct or other instances of potential Wrongdoing is subject to discipline, which may include termination of employment.

d) Any allegation of retaliation or interference will be taken and treated seriously and irrespective of the outcome of the initial complaint, such allegation will be treated as a separate matter.

SECTION III: OTHER LEGAL RIGHTS NOT IMPAIRED

The Whistleblower Policy and Procedures set forth herein are not intended to limit, diminish, or impair any other rights or remedies that an individual may have under the law with respect to disclosing potential Wrongdoing free from retaliation or adverse personnel action.

a) Specifically, these Whistleblower Policy and Procedures are not intended to limit any rights or remedies that an individual may have under the laws of the State of New York, including but not limited to the following provisions: Civil Service Law § 75-b, Labor Law § 740, State Finance Law § 191 (commonly known as the “False Claims Act”), and Executive Law § 55(1).

b) With respect to any rights or remedies that an individual may have pursuant to Civil Service Law § 75- b or Labor Law § 740, any NYSERDA Employee who wishes to preserve such rights shall prior to disclosing information to a government body, have made a good faith effort to provide the appointing authority or his or her designee the information to be disclosed and shall provide the appointing authority or designee a reasonable time to take appropriate action unless there is imminent and serious danger to public health or safety. (See Civil Service Law § 75-b[2][b]; Labor Law § 740[3])